

December 14, 2005

The Regular Meeting of the Rockingham County Board of Supervisors was held on Wednesday, December 14, 2005, at 3:00 p.m. at the Rockingham County Administration Center, Harrisonburg, Virginia. The following members were present:

PABLO CUEVAS, Election District #1
CHARLES W. AHREND, Election District #2
DEE E. FLOYD, Election District #3
WILLIAM B. KYGER, JR., Election District #4
MICHAEL A. BREEDEN, Election District #5

Also present:

JOSEPH S. PAXTON, County Administrator
G. CHRIS BROWN, County Attorney
STEPHEN G. KING, Deputy County Administrator
JAMES L. ALLMENDINGER, Director of Finance
IAN J. BENNETT, Deputy Fire & Rescue Chief
WENDELL J. EBERLY, Director of Recreation and Facilities
WARREN G. HEIDT, Director of Public Works
RHONDA G. HENDERSON, Director of Planning
SHELBY T. HERTZLER, Storm Water Management Administrator
FRANKLIN P. O'BYRNE, Director of Information Systems
DIANA C. STULTZ, Zoning Administrator
ROBERT A. SYMONS, Fire and Rescue Chief
WILLIAM L. VAUGHN, Director of Community Development
DOTTIE L. BOWEN, Deputy Clerk
DONALD F. KOMARA, Resident Engineer
Virginia Department of Transportation

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CALL TO ORDER
PLEDGE OF ALLEGIANCE
INVOCATION.

Chairman Cuevas called the meeting to order at 3:00 p.m.

Public Works Director Heidt led the Pledge of Allegiance and Supervisor Kyger gave the Invocation.

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APPROVAL OF MINUTES.

On motion by Supervisor Ahrend, seconded by Supervisor Breeden and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board approved the minutes of the Regular Meeting held on November 16, 2005.

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PRESENTATION - FY2004-05 COMPREHENSIVE ANNUAL FINANCIAL REPORT.

The Board heard a presentation by Mensel D. Dean and Michael A. Garber, auditors, PBGH, LLP, regarding the FY2004-05 Comprehensive Annual Financial Report.

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ABSTRACT OF VOTES -GENERAL ELECTION - NOVEMBER 8, 2005.

On motion by Supervisor Ahrend, seconded by Supervisor Kyger and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board instructed the Clerk to include in the minutes of the meeting the following abstract of votes from the 2005 General Election.

GOVERNOR

Names of Candidates with Party ID as shown on Ballot	Total Votes Received
JERRY W. KILGORE - R	13,262
TIMOTHY M. KAINE - D	6,560
H. RUSS POTTS, JR. - I	404
Total Write-In Votes	19
Total Number of Overvotes for Office	0

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LIEUTENANT GOVERNOR

Names of Candidates with Party ID as shown on Ballot	Total Votes Received
WILLIAM T. "BILL" BOLLING - R	13,849
LESLIE L. BYRNE - D	5,964
Total Write-In Votes	35
Total Number of Overvotes for Office	0

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ATTORNEY GENERAL

Names of Candidates with Party ID as shown on Ballot	Total Votes Received
ROBERT F. "BOB" McDONNEL - R	13,065
R. CREIGH DEEDS - D	6,842
Total Write-In Votes	2619
Total Number of Overvotes for Office	1

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MEMBER - HOUSE OF DELEGATES - 15TH DISTRICT

Names of Candidates with Party ID as shown on Ballot	Total Votes Received
C. TODD GILBERT - R	653
JIM K. BLUBAUGH - D	238
Total Write-In Votes	4
Total Number of Overvotes for Office	0

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MEMBER - HOUSE OF DELEGATES - 20TH DISTRICT

Names of Candidates with Party ID as shown on Ballot	Total Votes Received
CHRIS B. SAXMAN - R	4,048
BRUCE A. ELDER - D	1,674
Total Write-In Votes	14
Total Number of Overvotes for Office	0

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MEMBER - HOUSE OF DELEGATES - 25TH DISTRICT

Names of Candidates with Party ID as shown on Ballot	Total Votes Received
R. STEVEN "STEVE" LANDES - R	3,482
Total Write-In Votes	163
Total Number of Overvotes for Office	1

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MEMBER - HOUSE OF DELEGATES - 26th DISTRICT

Names of Candidates with Party ID as shown on Ballot	Total Votes Received
MATTHEW J. "MATT" LOHR - R	5,327
LOWELL L. FULK - D	3,716
Total Write-In Votes	20
Total Number of Overvotes for Office	0

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MEMBER - BOARD OF SUPERVISORS - DISTRICT 1

Names of Candidates as shown on Ballot	Total Votes Received
PABLO CUEVAS	3,208
Total Write-In Votes	132

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MEMBER - BOARD OF SUPERVISORS - DISTRICT 3

Names of Candidates as shown on Ballot	Total Votes Received
DEE E. FLOYD	3,547
Total Write-In Votes	206

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MEMBER - SCHOOL BOARD - DISTRICT 1

Names of Candidates as shown on Ballot	Total Votes Received
ANTHONY SLATER	2,872
Total Write-In Votes	74

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MEMBER - SCHOOL BOARD - DISTRICT 3

Names of Candidates as shown on Ballot	Total Votes Received
JOHN C. MYERS, JR.	3,626
Total Write-In Votes	86

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RESOLUTION 05-35 CENTRAL SHENANDOAH VALLEY BICYCLE PLAN.

Following a presentation by Mr. Vaughn and Thomas Jennings, member of the Central Shenandoah Valley Bicycle Advisory Committee, on motion by Supervisor Kyger, seconded by Supervisor Ahrend and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board adopted the following resolution.

RESOLUTION NO. 05-35
APPROVAL OF THE CENTRAL SHENANDOAH VALLEY BICYCLE
PLAN

WHEREAS, federal regulations implemented as a result of the Transportation Equity Act for the 21st Century encourage local communities to include bikeway planning as a part of their intermodal planning activities; and

WHEREAS, the Virginia Commonwealth Transportation Board adopted a policy for integrating bicycle and pedestrian accommodations into roadway projects on March 18, 2004; and

WHEREAS, the Central Shenandoah Planning District received Virginia Department of Transportation funding through its Rural Transportation Planning Assistance Program and matched with local funds to develop a regional bicycle facilities plan; and

WHEREAS, the local jurisdictions of the Central Shenandoah Planning District established a regional Bicycle Advisory Committee and appointed representatives to serve on the Central Shenandoah Bicycle Advisory Committee to oversee the development of the regional bicycle facilities plan; and

WHEREAS, the Bicycle Advisory Committee recognizes the potential transportation, health, recreation, tourism and economic benefits of bicycling, and accordingly advocate to make roads in the Central Shenandoah Valley safer for persons who bicycle, including children, families and commuters as well as for motorists; and

WHEREAS, the Bicycle Advisory Committee was provided staff support by the Central Shenandoah Planning District Commission and provided transportation planning services by Toole Design Group; and

WHEREAS, the efforts of the Bicycle Advisory Committee, the staff of the Central Shenandoah Planning District Commission and Toole Design Group as well as members of the public, private and nonprofit sectors, have resulted in the development of the Central Shenandoah Valley Bicycle Plan; and

WHEREAS, the Bicycle Advisory Committee thoroughly reviewed and approved the recommendations included in the Central Shenandoah Valley Bicycle Plan;

NOW, THEREFORE BE IT RESOLVED that the Board of Supervisors of Rockingham County, Virginia, does hereby approve the Central Shenandoah Valley Bicycle Plan.

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APPROVAL OF HEARTLAND VETERINARY CLINIC REQUEST TO HOLD RABIES CLINICS.

On motion by Supervisor Floyd, seconded by Supervisor Ahrend and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board approved the request of Heartland Veterinary Clinic to hold four rabies clinics in the County in January 2006.

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APPOINTMENTS - BUILDING APPEALS BOARD AND RECREATION COMMISSION.

On motion by Supervisor Breeden, seconded by Supervisor Floyd and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board appointed Win Hunt and John Knepper to the Building Appeals Board for five-year terms expiring on October 31, 2010.

On motion by Supervisor Ahrend, seconded by Supervisor Floyd and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board reappointed Lenny McDorman, Harvey Morris and James Veney to the Recreation Commission for four-year terms expiring on December 31, 2009.

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COUNTY ADMINISTRATOR'S STAFF REPORT.

The Board received and reviewed Mr. Paxton's staff report dated December 8, 2005, concerning the proposed Elkton boundary line adjustment, the landfill, proposed changes to the solid waste ordinance, the Upper Valley Regional Park Authority, economic development, Administration Center space, Shenandoah Valley Juvenile Detention Center and a proposed federally-qualified community health center. He noted that the Health Department will institute new procedures, January 1, 2006, related to septic approvals and noted also information received from the School Census concerning additional students generated by new subdivisions.

On motion by Supervisor Kyger, seconded by Supervisor Ahrend and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board went on record supporting the request of several members of the General Assembly for the Governor to include in the FY 2006-07 State Budget capital funds to accelerate the addition and development of new state parks, including Grand Caverns Park.

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COUNTY ATTORNEY'S STAFF REPORT.

The Board received and reviewed Mr. Brown's staff report dated December 9, 2005, concerning legal matters.

On motion by Supervisor Breeden, seconded by Supervisor Floyd and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board authorized advertising amendments to the Solid Waste Ordinance.

On motion by Supervisor Ahrend, seconded by Supervisor Kyger and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board adopted the following resolution.

**RESOLUTION APPROVING CONDEMNATION OF TEMPORARY AND
PERMANENT EASEMENTS ACROSS THE PROPERTY OWNED BY
JERRY RAY SIMMONS**

WHEREAS, a motion was made by the Board of Supervisors of Rockingham County, Virginia, to acquire, enter, and take certain specified property being a 30 foot right of way and easement ("Property") set forth and more particularly described on two plats attached hereto and incorporated herein as Exhibits A and B ("Property"), respectively describing the easements to be taken from the Property owned by Jerry Ray Simmons ("Property Owner"); and

WHEREAS, the Board of Supervisors hereby deems it necessary to enter upon and take said right of way and easement prior to or during the resolution of any subsequent condemnation proceeding relating to the Property; and

WHEREAS, the necessity for the entering and taking of the right of way and easement is for the construction, maintenance and use of an access road for an emergency communications tower; and

WHEREAS, upon passage of this Resolution the County of Rockingham, Virginia, will be authorized pursuant to Virginia Code sections 25.1-300 through 25.1-318 to institute and conduct condemnation proceedings for the Property; and

WHEREAS, the Board of Supervisors of Rockingham County, Virginia finds it necessary for the taking of the Property for the public uses cited herein; and

WHEREAS, the work and improvements on the Property are necessary to construct, maintain and use an access road for an emergency communications tower; and

WHEREAS, the use to which the Property shall be put is the construction, maintenance and use of an access road for an emergency communications tower shown on Exhibits A and B, and to provide temporary easements for work spaces during construction of the access road, and for the movement and operation of equipment on said access road; and

WHEREAS, the compensation and damages offered for the Property as valued by the Commissioner of the Revenue, specifically \$5,000 for the right of way, was conveyed and offered to the Property Owner by the County of Rockingham, Virginia in a bona fide manner pursuant to correspondence attached hereto as Exhibit C; and it is

RESOLVED that the County of Rockingham, State of Virginia, does hereby declare its intent to enter and take the certain specified Property set forth herein for the purposes set forth herein on December 21, 2005; and

BE IT FURTHER RESOLVED, the County of Rockingham, Virginia pursuant to Virginia Code section 15.2-1905 hereby elects to use the procedures set forth in Virginia Code sections 25.1-300 through 25.1-318 for condemnation proceedings as may be applicable to the taking of the Property for public uses authorized by Virginia Code section 15.2-1904(A); and

BE IT FURTHER RESOLVED, all recitals set forth herein above are hereby incorporated as a part of this Resolution; and

BE IT FURTHER RESOLVED, that the County Attorney is directed to forward to the Property Owners a copy of this Resolution together with the Notice required by Virginia Code Section 15.2-1905(B)(1) by December 15, 2005; and

BE IT FURTHER RESOLVED, G. Chris Brown, County Attorney of Rockingham County, Virginia, be and he hereby is authorized and directed to take such actions and execute such documents on behalf of this Board of Supervisors as may be necessary to carry out the provisions of this Resolution.

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DEPUTY COUNTY ADMINISTRATOR'S STAFF REPORT.

Mr. King reported that the addition to the County Garage is almost complete so that Fire & Rescue equipment can be moved into that facility in the next 30 days or so.

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PUBLIC WORKS DIRECTOR'S STAFF REPORT.

The Board received and reviewed Mr. Heidt's staff report dated December 9, 2005, including information concerning the Penn Laird Drive & Water Tower Road Sewer, Lakewood/Massanetta Springs Pump Station, McGaheysville WWTP, Landfill Phase III expansion, Grassy Creek tank, Three Springs Water system analysis, Pleasant Run interceptor, Harrisonburg Waste to Energy Plant, Sanitary Landfill Inspection, and Solid Waste Management Plan.

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COMMUNITY DEVELOPMENT DIRECTOR'S STAFF REPORT.

The Board received and reviewed Mr. Vaughn's staff report dated December 14, 2005, including information concerning Planning Commission activities, the draft McGaheysville Area Plan the Blue Ridge Committee, Capital Improvement Program update, development activities, priority projects, tabled requests, and upcoming requests.

In regard to rezoning request RZ05-26 Preston Lake, LLC, Supervisor Floyd said he was going to move to take the request off the table. He noted, "This is probably one of the best planned developments that has come before us. However, I have had many concerns about the congestion in the area from a transportation standpoint and from the standpoint of the overcrowded schools."

On motion by Supervisor Floyd, seconded by Supervisor Kyger and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD -

AYE; KYGER - AYE; the Board removed from the table RZ05-26 Preston Lake, LLC, 314 Main Street, Port Jefferson, NY, to rezone 20.94 acres from A2 (General Agricultural) to PCD (Planned Commercial District) and 124.69 acres from A2 (General Agricultural) to R5 (Planned Residential) on tax parcels 126 (A) 4, 125 (A) 216, and 125 (A) 219. This request is located southwest of the intersection of Spotswood Trail (Route 33) and Massanetta Springs Road (Route 687) in Election District #3. The Comprehensive Plan designates this area as Commercial and Community Residential. R5 allows 8 dwelling units per gross acre. The proposed Master Plan shows 3.7 dwelling units per gross acre. This request was tabled by the Board on October 26, 2005.

On motion by Supervisor Kyger, seconded by Supervisor Ahrend and carried by a vote of 4 to 1, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - NO; KYGER - AYE; the Board approved RZ05-26 Preston Lake, LLC, subject to the following proffers.

The following conditions and proffers are made part of the PCD and R-5 Master Planned rezoning applications for the Preston Lake Project:

I. Road Infrastructure and Upgrade Proffers

I. Developer will maintain a two hundred foot (200') wide undeveloped corridor ("Corridor") as shown on the Master Plan for future dedication to VDOT as needed for future public road improvements as determined by VDOT and Rockingham County. This proffered Corridor will be maintained for a period of five (5) years. If the Corridor is not designated by VDOT for road improvements within five (5) years from the date of Master Plan approval, this proffer shall cease and the Corridor property shall be freely available for Developer use via modification to the Master Plan. Developer agrees to dedicate the Corridor to public use for road improvements if requested by VDOT within five (5) years of Master Plan approval. In addition, if VDOT designates the Corridor for use in connection with future connector road improvements within the five (5) year time period referenced above, Developer agrees to construct a two-lane roadway ("the "Required Roadway") through the Preston Lake Property, within the Corridor, and subject to the conditions contained herein. The Required Roadway shall be constructed according to the "Typical Road Section" design shown on the "Proposed Road for the Preston Lake Property" prepared by Blackwell Engineering, Edmond H. Blackwell, P.E., attached hereto as Exhibit A, and incorporated herein by reference. The actual location of the Required Roadway will be within the Corridor, along one side thereof, to permit the future expansion by VDOT of the Required Roadway to four or more lanes. The actual location of the Required Roadway within the Corridor shall be reasonably approved in advance by VDOT, but shall give due consideration to topographic features and Preston Lake's property development plans. The Required Roadway will lie within the two hundred foot (200') right of way to be dedicated to VDOT by Developer as provided in these Proffers. VDOT shall have the right to require the coordination of completion of the Required Roadway by Developer in the event VDOT constructs a connector road to the Required Roadway upon adjoining properties lying to the west and south of the Preston Lake Property. The completion of the Required Roadway by Developer will be scheduled in conjunction with the completion of the future connector road constructed by VDOT, and shall be completed prior to, or in conjunction with, VDOT's completion of the future connector on adjoining properties. Other than the Required Roadway and standard utilities necessary for the development of the Preston Lake Property, Developer shall make no other improvements within the Corridor for the five (5) year period from the date of rezoning as set forth in the Proffers. In the event VDOT has not selected the Corridor for construction of a connector road within five (5) years from the date of rezoning, Developer's obligations hereunder shall cease. Without proffering a dollar amount, it is anticipated that such improvements will aggregate approximately Three Hundred Fifty Thousand Dollars (\$350,000) in value, exclusive of the value of the underlying land and reduction in Project potential units.

2. Developer will design and construct those road improvements and entrances materially as shown on the Master Plan, including improvement of Massanetta Springs Road along the length of the properties, improvements to Boyers Road at the

entrances to the Preston Lake development, and an entrance off of U.S. Route 33 into the commercial development. Without proffering a dollar amount, it is anticipated that the Massanetta Springs Road improvements outlined in number I.2 to I.4 will aggregate approximately Five Hundred Thousand and no/100 Dollars (\$500,000.00) in value.

3. All entrances will have landscaped features appropriate to the community. The primary project entrance from Massanetta Springs Road will include a distinct entry feature such as a stone wall, fencing and landscaping elements. All entrances will be constructed providing adequate clear zones and in accordance with all other VDOT regulations.

4. Developer will design, install, and dedicate certain public streets within the project, which include the main connector street between Massanetta Springs Road and Boyers Road.

5. All other internal private streets will be constructed to Rockingham County width and base specifications, which will be determined based upon projected traffic counts. The Main Street area within the PCD shall be designed and installed for limited vehicular access for delivery, handicap, emergency, and special purposes only with primary use as a pedestrian-only street.

6. Directional signs for Massanetta Springs Conference Center and Sunnyside Retirement Community will be permitted by cooperative location proximate to the intersection of U.S. Route 33 and Massanetta Springs Road. Such signage is permitted for community benefit, and shall not be chargeable against the allowable sign square footage allotment for the Preston Lake project. All signs shall be located off of the VDOT right of way.

7. Developer will enter into a standard signal agreement with VDOT for the future installation of a traffic control light at the intersection of Quarles Court, Massanetta Springs Road and the primary entrance to Preston Lake. If, within five (5) years of project buildout, VDOT determines that a light is needed at this location, Developer will agree to contribute one-half (1/2) of the actual cost of installing the required traffic signal, with such costs capped at 2005 signal installation rates of One Hundred Ten Thousand and no/100 Dollars (\$110,000.00). This Developer proffer will expire in five (5) years from the date of project buildout.

II. Infrastructure Impact Fee Proffers

1. All Residential Lots ("Lots") shown on the proposed Master Plan for the Preston Lake Project shall be subject to an Infrastructure Impact Fee, ("Impact Fee") calculated upon the number of bedrooms in any residential structures constructed upon the Lots. The same Impact Fee shall apply to any residential condominium or like residential units constructed by the Developer within the PCD portion of the Project, and will be calculated and paid in the same manner as Impact Fees for residential Lots within the R-5 portion of the Project.

2. The Impact Fee shall be calculated at a rate of Three Hundred Fifty and no/100 Dollars (\$350.00) per bedroom in any residential structure constructed on any residential Lot in Preston Lake. The Impact Fee shall be payable by the Developer to the County at the time of the closing and transfer of title to any Lot from the Developer, or at such time as the Developer has retained any such Lot (or condominium unit) for a period of one (1) year after a final Certificate of Occupancy has been issued for any residence located on a Lot (or for any condominium unit). A non-binding, but illustrative example of the payment structure for the Impact Fees is shown on the Schedule attached hereto and entitled "Preston Lake Infrastructure Proffer Revenue Projection".

3. For any Lot (or residential portion of the PCD) upon which no residential structure or unit is constructed, no Impact Fee shall become due from the Developer.

4. In addition, all commercial units located within the PCD portion of the Project shall be subject to a commercial unit Infrastructure Impact Fee, ("C Impact Fee"). C Impact Fees shall be calculated in the amount of One Thousand and no/100 Dollars (\$1,000.00) per commercial unit or commercial out parcel (anticipated to be approximately fifty (50) units within the PCD portion of the Project). The C Impact Fee shall be payable by the Developer to the County at the earliest of: (i) the commercial unit is retained by the Developer and has been occupied by a leasehold tenant for twelve (12) months, (ii) at the time of the closing of the sale of a commercial unit to a third party purchaser, or (iii) twenty-four (24) months after the issuance of a final Certificate of Occupancy for the commercial unit. A non-binding, but illustrative example of the payment structure for the C Impact Fees is also shown on the Schedule attached hereto and entitled "Preston Lake Infrastructure Proffer Revenue Projection".

5. The aggregate payment of the combined Impact Fees and C Impact Fees upon buildout of the entire Project as materially shown on the Master Plan, and described in the Schedule, shall be no less than Five Hundred Thousand and no/100 Dollars (\$500,000.00). In the event the aggregate amount of said Impact Fees and C Impact Fees is less than Five Hundred Thousand and no/100 Dollars (\$500,000.00) at the time the above described buildout is materially complete, and all Lots are constructed and sold, the Developer shall pay, within six (6) months of Project completion, the difference to the County to reach the minimum aggregate Impact Fee and C Impact Fee threshold of Five Hundred Thousand and no/100 Dollars (\$500,000.00). Developer proffers no deadline for Project completion or the commensurate payment of the aggregate Impact Fee and C Impact Fee amount.

6. In the event the residential units on Lots, condominium residential units and commercial units within the Project are not constructed, or are only partially constructed, Impact Fees and/or C Impact Fees shall not become due and payable on Lots or within portions of the PCD that remain unimproved by residences or commercial units, and there shall be no guarantee of any minimum payment by the Developer to the County as set forth in Section II.5.

7. The Developer shall have the option, upon contractual disclosure in the sale of residential Lots or residential condominium units, or within the sale or lease transactions for commercial units, to pass through the Impact Fees or C Impact Fees to purchasers or renters of any such Lots, residences or commercial units. However, this shall not relieve Developer from responsibility for payment of any such Impact Fees or C Impact Fees if and when said fees become due and payable to the County under the terms provided in this Section II.

III. Planned Commercial District

1. The Planned Commercial District Main Street area will have materially the architectural design and appearance depicted in the artist's rendering attached hereto as **Figure A**. Any out parcels will materially conform to this architectural design and quality.

2. The PCD Main Street area will contain traditional street lighting, park benches, phone booths, and similar traditional community shopping features. Sidewalks and walkways will be installed with accented areas of stamped concrete, brick, and/or landscape pavers.

3. Building size and square footage will vary according to merchant needs within the general location and limits shown on the Master Plan. All store fronts within the Main Street area will have traditional signage and pedestrian accessible display areas. All storefronts will feature varying rooflines and materials to include flat and pitched roofs, metal seamed roofing, and other features to replicate traditional neighborhood commercial aesthetics.

4. All building front facades facing Main Street will contain high quality materials such as brick, stone, shingle, clapboard, stucco, and similar materials. No vinyl siding, exposed concrete block or unfinished masonry will be permitted on the front or exposed side facades within the PCD.

5. A focal clock tower structure as generally depicted on Figure A will be constructed by the developer in the Main Street commercial area.

IV. R-5 Residential Areas

1. The Planned Residential areas will contain four (4) distinct town home neighborhoods as shown on the Master Plan. These neighborhoods are identified by four (4) separate traditional American geographical architecture styles: Charleston, Williamsburg, Georgetown, and Boston Common. Each distinct town home neighborhood will have materially the architectural design and appearance depicted in the artist's renderings attached hereto as Figures C, D, E, and F. These figures correspond sequentially to the neighborhood geographical styles denoted in this paragraph and on the Master Plan. Developer reserves the right to rearrange the sequence of the phased development shown on the Master Plan and to rearrange the proffered architectural styles amongst the designated phases. While architectural style and design quality will be maintained according to the proffered renderings, Developer reserves the right to arrange particular units according to owner demand and to create varied community appearance.

2. The town home neighborhoods will prohibit vinyl siding, exposed masonry or concrete block and wood framed chimneys. Exterior materials will include brick, stone, clapboard, and shingles. All roofing to be architectural asphalt shingles, metal roofing, wood shingles, or flat roofs. Each architectural style neighborhood will have multiple unit designs/layouts to be assembled in an ever-changing layout by building. The Preston Lake town home neighborhoods are designed with both architectural style conformity, but with building configuration irregularity to assure that all the buildings do not all look the same within a neighborhood. The final layout of each building section will be determined by purchaser selection and developer infill. Exterior colors to be traditional colonial color schemes fitting with each architectural style.

3. The single-family lot neighborhood phases will contain exclusively traditional designs with exterior facade materials to include brick, stone, shingle, clapboard, and brick chimneys. Vinyl siding, wood framed chimneys, and exposed masonry or concrete block will be prohibited. Windows will consist mainly of double hung design with grilles. Traditional paneled front doors of varying colors will be installed. No contemporary designed homes will be permitted in order to maintain traditional community architectural conformity. Roofing materials will include architectural asphalt shingles, metal roofing, and wood shingles. Exterior colors to be traditional color schemes fitting with the traditional architectural style.

4. Homeowners Associations will be formed at Project and Neighborhood levels to maintain community quality of life and improvement standards. The Associations will also manage and regulate the use of community Common Areas and amenities.

5. A lakeside Community Center will be constructed to substantially conform to the design and appearance as depicted in the artist's rendering attached as **Figure B**. The actual Community Center as-built will be substantially as shown on the Master Plan, but may vary slightly in size and shape to conform to the lakefront shape and final pool location. Community Center size to be determined by office space needs, fitness center needs, meeting room space, kitchen/catering requirements, deck sizing, and other community amenities.

6. Developer will install, and the Association will maintain, a 3.5 to 4-acre lake as shown on the Master Plan. The lake will be excavated to a depth to support game fish and stocked for community use. The lake will contain fountain or other agitation features. The Developer and Association will manage and maintain the community lake. The lake and Community Center area will contain appropriate lighting and landscaping for aesthetic and safety purposes.

7. Developer will install, and the Association will maintain, two (2) decorative, covered, and seated bus stops at the two (2) main community entrances for use by public transportation services.

8. Trees and other landscaping will be installed by the Developer and maintained by the Association throughout the project. Specifically, street trees such as pears, cherries, or similar flowering varieties will surround the lake and Community Center, will be spaced along the major through street, interspersed within the town home neighborhoods and placed decoratively in the Village Green.

9. A landscaped elevated berm will be installed by the Developer and maintained by the Association as shown on the Master Plan between the southern-most single-family home lots and the Massanetta Springs Conference Center.

10. The parks and other Common Area amenities shown on the Master Plan will be outfitted by the Developer with appropriate surfaces, landscaping, picnic tables, outdoor benches and furnishings, sports equipment, playground equipment, and other like improvements. These areas and amenities will be maintained by the Association.

11. The town home phasing will progress at no greater pace than one (1) phase per year as shown on the Master Plan. The Developer reserves the right to change the order of Phases constructed.

12. The single-family phasing will progress at no greater than the number of lots shown per phase per year as shown on the Master Plan (i.e., limited to twenty-five (25) single-family lots per year). The Developer reserves the right to allocate this maximum twenty-five (25) lot per year allotment amongst different single-family project phases in accordance with home mix and infrastructure installation schedules.

V. Fire and Rescue Contributions.

1. Developer will provide construction funding for the expansion or relocation of the Hose Company #4 building to facilitate the housing of a ladder truck. Total funding of One Hundred Fifty Thousand and no/100 Dollars (\$150,000.00) will be provided over a three (3) year period. The funding dates will fall on the three (3) anniversary dates beginning twenty (20) months from the approval of the Master Plan. Three (3) equal payments of Fifty Thousand and no/100 Dollars (\$50,000.00) will be made on each of the three (3) anniversary dates identified above.

2. Developer will provide to Rockingham County Department of Fire and Rescue Two Thousand Five Hundred and no/100 Dollars (\$2,500.00) per year for three (3) years to upgrade the training for volunteer firefighters and emergency medical services providers to be used at the discretion of the Rockingham County Department of Fire and Rescue. These amounts will be payable in three (3) equal annual installments scheduled as follows: \$2,500.00 twelve (12) months after Master Plan approval, \$2,500.00 twenty-four (24) months after Master Plan approval, and \$2,500.00 thirty-six (36) months after Master Plan approval.

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INFORMATION SYSTEMS DIRECTOR'S STAFF REPORT.

The Board received and reviewed Mr. O'Byrne's staff report dated December 9, 2005, including information concerning personnel, projects (ICHRIS, Document Imaging Software, Circuit Courthouse Deed Room project, web site development project, window server upgrades and converting Dataflex software systems to the current release; and equipment (Fire & Rescue Department computers and Parks & Recreation Department computers).

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FIRE AND RESCUE CHIEF'S STAFF REPORT.

The Board received and reviewed Chief Symons' staff report dated December 8, 2005, including information concerning personnel, training, Prevention Division

activities, public education, and other activities.

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RECREATION AND FACILITIES STAFF REPORT.

The Board received and reviewed Mr. Eberly's staff report dated December 8, 2005, including information concerning facilities (Convention/Visitors Bureau building, Pleasant Valley modular unit, and Administration Center, and various recreation programs.

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COMMITTEE REPORTS.

The Board heard Committee Reports by Board members and staff.

On motion by Supervisor Kyger, seconded by Supervisor Ahrend and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; as recommended by the Automobile Committee, the Board approved the purchase of a Four Wheel Drive Pick-Up Truck for the Landfill, a 2006 Chevrolet 2500 HD from Dick Myers for \$20,104.

On motion by Supervisor Ahrend, seconded by Supervisor Floyd and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; as recommended by the Buildings and Grounds Committee, the Board approved a supplemental appropriation, from the Contingency, of \$16,550 for the following projects: \$10,550 for conversion of the old CVB building to be used by the Registrar; \$2,500 for storage area in Treasurer Office; \$2,000 for preparation of old Registrar's office space for use by the Human Resources Department; and \$1,500 for preparation of the old Human Resources Department space for use by the Economic Development Tourism Coordinator.

On motion by Supervisor Breeden, seconded by Supervisor Kyger and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; as recommended by the Finance Committee, the Board:

- As requested by Fire and Rescue, approved a supplemental appropriation in the amount of \$10,200 for the purchase of personal protective equipment for the six new fire and rescue positions. The positions and cost of equipment were originally cut from the budget. When the positions were approved for January 1, 2006, the equipment was overlooked. Funding to be provided through the Contingency Fund.

Supplemental Appropriation: \$10,200

\$10,200 GL Code: 001-03201-000-6065-000 Minor Equipment
(\$10,200) GL Code: 001-09110-000-5800-000 Contingency

- As requested by Fire and Rescue Chief, approved a supplemental appropriation in the amount of \$15,000 for the purchase of a stand alone server and license (\$10,000 server and approximately \$5,000 license). Funding to be provided through the Contingency Fund.

Supplemental Appropriation: \$15,000

\$15,000 GL Code: 001-03201-000-8007-000 Computer Equipment
(\$15,000) GL Code: 001-09100-000-5800-000 Contingency

On motion by Supervisor Breeden, seconded by Supervisor Ahrend and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; as recommended by the Public Works Committee, the Board endorsed the upgrade of the Harrisonburg-Rockingham Regional Sewer Authority's existing North River Wastewater Treatment Facility to an enhanced nutrient removal process with a design capacity of 22 million gallons per day (mgd).

On motion by Supervisor Breeden, seconded by Supervisor Floyd and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; as recommended by the Public Works Committee, the Board approved the expenditure of not more than \$566,144 of the landfill upgrade funding for the County's share of the purchase of a new compactor in the current fiscal year and authorized advertising for bids for purchase of this equipment. Mr. Paxton noted that the bids would be brought back to the Board for final approval.

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CLOSED MEETING.

On motion by Supervisor Kyger, seconded by Supervisor Breeden and carried by the following vote: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; and KYGER - AYE; the Board recessed the meeting from 4:16 to 4:57 p.m., for a closed meeting pursuant to Section 2.2-3711(A) 7, to discuss a water contract with the City of Harrisonburg and Elkton boundary line adjustments.

At 4:57 p.m., Chairman Cuevas called the meeting back to order and the following motion was adopted.

MOTION: SUPERVISOR AHREND RESOLUTION NO: X05-13
SECOND: SUPERVISOR BREEDEN MEETING DATE: DEC. 14, 2005

CERTIFICATION OF CLOSED MEETING

WHEREAS, the Rockingham County Board of Supervisors has convened a Closed Meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of The Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3712 of the Code of Virginia requires a certification by this Board of Supervisors that such Closed Meeting was conducted in conformity with Virginia law;

NOW, THEREFORE, BE IT RESOLVED that the Rockingham County Board of Supervisors hereby certifies that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the Closed Meeting to which this certification resolution applies; and (ii) only such public business matters as were identified in the motion convening the Closed Meeting were heard, discussed or considered by the Board of Supervisors.

VOTE:

AYES: AHREND, BREEDEN, CUEVAS, FLOYD, KYGER

NAYS: NONE

ABSENT: NONE

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RECESS FOR DINNER.

At 4:57 p.m., Chairman Cuevas declared the meeting recessed for dinner until 6:30 p.m.

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TRANSPORTATION MATTERS.

PUBLIC HEARING - FY2006-07 SIX-YEAR PLAN.

At 6:30 p.m., Chairman Cuevas called the meeting back to order and then declared it open for a public hearing on the VDOT FY2006-07 Six-Year Plan.

There were no comments from residents in Election Districts 1, 3 and 4.

Tim Jost, Election District 2, said he was in favor of paving Route 766 and Willow Run. He noted his concern that straightening Switchboard Road and paving Willow Run might make a "mini loop road" around Harrisonburg. He said such a road would not be safe for truck traffic. If truck traffic becomes a problem, he asked that the question be re-visited in the future.

Gene Haas, Election District 5, asked about the timing of the funding for the Route 644 project. Mr. Komara explained that the funding would be available as needed and that the project would be advertised in the spring of 2006, with construction to start in the fall.

At 6:50, Chairman Cuevas closed the public hearing and declared the regular meeting reopened.

On motion by Supervisor Kyger, seconded by Supervisor Breeden and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board approved the FY2006-07 Six-Year Plan as follows.

District: Staunton						
County: ROCKINGHAM						
Road System: Secondary						
Funding Allocation Summary						
Harrisonburg Residency						
(All dollar figures in thousands)						
	FY2007	FY2008	FY2009	FY2010	FY2011	FY2012
				.		~
Bridge Replacement	0	0	0	2,637	1,664	0
Federal						
Secondary Formula						
Federal/State	2,580	2,566	2,607	2,460	2,540	2,540
Unpaved Road Funds						
Unpaved	753	739	743	670	676	676
Grand Total	3,333	3,305	3,350	5,766	4,880	3,216

The Board heard a report from Mr. Komara on the activities of the Transportation Department.

In regard to INTERSTATE 81, Supervisor Kyger noted that the Board had copies of a resolution titled "Reasonable Solutions for I-81: A Six Point Plan for the Future," adopted by Augusta and Shenandoah Counties. He indicated that the items listed were "common sense points" that needed to be considered. He reminded the Board that improvements to I-81 have been discussed for a number of years but no action has been taken. He suggested that the Board adopt a resolution in support of the actions taken by Augusta and Shenandoah Counties.

Chairman Cuevas said the resolution could show what the Board is thinking so that VDOT could react to it. He said the County needed to know the state and federal officials' intentions.

On motion by Supervisor Kyger, seconded by Supervisor Breeden and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board adopted the following resolution.

RESOLUTION NO. 05-37
REASONABLE SOLUTIONS FOR 1-81:
A SIX POINT PLAN FOR THE FUTURE

WHEREAS, there is a need to address safety issues and congestion problems on portions of 1-81 throughout the Commonwealth of Virginia; and

WHEREAS, an eight- to 12-lane, tolled truck lane project has been proposed and is under review by the Virginia Department of Transportation (VDOT); and

WHEREAS, state and local elected officials, business groups and citizens organizations throughout the 1-81 corridor have called for an alternative plan that is less costly, more targeted to specific safety and congesting issues, and more effective at moving goods and people throughout the corridor;

NOW, THEREFORE, BE IT RESOLVED that the Rockingham County Board of Supervisors hereby supports *Reasonable Solutions for 1-81: A Six Point Plan for the Future*, as a good first step towards addressing the needed long-term improvement to I-81 in Virginia.

BE IT FURTHER RESOLVED that the Board calls upon federal, state and local governments to work cooperatively toward achieving the following goals:

- Complete spot improvements to 1-81, such as climbing lanes and redesigned exits, which will improve safety and relieve congestion.
- Use of the highway's median, where possible, for such improvements to limit the encroachment of the road on private property and to avoid further impacts on adjacent landowners, communities, farmland, battlefields and tourism.
- Significantly step up law enforcement to improve safety.
- Incorporate meaningful transit options and funding for both urban and rural areas in road improvement plans. Coordinate with local governments, major employers, and colleges and universities in the development of these options.
- Work cooperatively with rail companies and government officials from Tennessee to Pennsylvania to develop an intermodal rail line to increase options for freight capacity, maintain economic competitiveness and avoid air quality and congestion problems as road use grows.

- Provide funding for land acquisition to create a buffer and mitigate impacts of I-81 on cultural resources in the corridor, most notably battlefields; and

BE IT FURTHER RESOLVED that the Board calls upon the Commonwealth Transportation Board to continue to develop a long-range plan to solve the safety and congestion issues for I-81.

On motion by Supervisor Floyd, seconded by Supervisor Kyger and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board adopted the following resolution.

RESOLUTION NO. 05-38

WHEREAS, the streets described below are shown on plats recorded in the Clerk's Office of the Circuit Court of Rockingham County, and

WHEREAS, the Resident Engineer for the Virginia Department of Transportation has advised this Board the streets described below meet the requirements established by the Subdivision Street Requirements of the Virginia Department of Transportation, and

NOW, THEREFORE, BE IT RESOLVED, this Board requests the Virginia Department of Transportation to add the following streets, a total distance of 0.17 mile to the secondary system of state highways, pursuant to Section 33.1-229, Code of Virginia, and the Department's Subdivision Street Requirements:

Name of Subdivision: Pleasant Valley Commercial Park

Name of Street: Interstate View Drive Rte. Length: 0.17 mile
905

Guaranteed right-of-way width: 50 feet.

Plat Recorded, Date: Novemeber 19, 1997 Deed Book: 1537 Page: 631

BE IT FURTHER RESOLVED, this Board guarantees a clear and unrestricted right-of-way, as described, and any necessary easements for cuts, fills and drainage, and

BE IT FURTHER RESOLVED that a certified copy of this resolution be forwarded to the Resident Engineer for the Virginia Department of Transportation.

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ELKTON BOUNDARY LINE ADJUSTMENTS.

Supervisor Breeden said he would move to approve Elkton Boundary Line adjustments, and he asked the County Attorney to prepare the proper language for the minutes which would capture all the agreements that had been expressed verbally. He stated, "The Town of Elkton has requested a boundary line adjustment between the Town and County. An agreement was developed between Elkton and County officials. As the Town worked with a developer for the Hiram Kite property, discussions and work between the Town and the developer came to a plan that required a larger boundary line adjustment than was required during the last annexation procedures. This larger boundary, which takes in property that is already zoned for housing, creates more expense for the County in infrastructure, schools and other costs. The Town Council, in working with the developer, has been active in helping offset these expenses and has been very proactive in working with the County to this end."

On motion by Supervisor Breeden, seconded by Supervisor Kyger and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board authorized execution of the following four agreements, contingent upon the receipt from the Town of Elkton of an agreement setting forth the various representations made by the Town of Elkton and Angler, the developer, regarding the Angler development.

AGREEMENT TO CHANGE BOUNDARY LINE

This Agreement, made on _____, 2005 by and between the County of Rockingham of the Commonwealth of Virginia, a Virginia political subdivision ("County"), and the Town of Elkton, Virginia, a Virginia municipal corporation ("Town"),

RECITALS:

- A. The boundary line between the County and the Town is presently adjacent to parcels of land owned by Hom Kear and Heak Kear, on the West side of North East Side Highway, just north of the Town of Elkton.
- B. As shown on a plat of the subject parcel made by Michael W. Mars, L.S., dated March 17, 2005, a copy of which is attached hereto as Exhibit A, the boundary line is situated so that the parcels belonging to Hom Kear and Heak Kear are in the County.
- C. Hom Kear and Heak Kear desire to have water and sewer service from the Town of Elkton for the parcels shown in Exhibit A.
- D. The County and the Town, pursuant to authority granted to each of them under Title 15.2, Chapter 31, Article 2 of the Code of Virginia (1950), as amended, have agreed to change the boundary line between them at the subject parcels in order that the Town may provide water and sewer service to these parcels. The County and the Town wish to set forth their agreement herein.

Now, therefore, in consideration of the premises and the benefits inuring to the parties here from, it is therefore mutually agreed as follows:

1. The boundary line of the Town of Elkton shall be expanded so that Tax Map Parcels 115 (2) 3F, 115 (2) 3C and 115 (2) 3B shall be located wholly within the Town boundary limits. Said parcels include the following:
 - a. A 1.257 acres parcel of land identified and described more fully by its metes and bounds description attached hereto as Exhibit B.
 - b. A 0.509 acres parcel of land identified and described more fully by its metes and bounds description attached hereto as Exhibit C.
 - c. A 0.872 acres parcel of land identified and described more fully by its metes and bounds description attached hereto as Exhibit D.
2. The boundary line change shall be effective upon the approval by the Circuit Court of Rockingham County, pursuant to §§ 15.2-3106 et seq. of the Code of Virginia (1950), as amended, encompassed in a final order establishing the new boundary, recorded in the land records and indexed in the names of the parties.
3. The parties shall jointly petition the Rockingham County Circuit Court to approve this agreement and establish the new boundary within a reasonable time following execution of the agreement.
4. The Town agrees to provide the area within the extended boundary with sewer, water, and all other Town services upon the effective date of the boundary change.
5. The Town shall bear the expense of the advertisement of the intention of both parties to approve this agreement, any survey costs or plat preparation charges, the filing fee for the petition to the Circuit Court to approve this agreement, all legal expenses related to the boundary line change, including reasonable fees of the County Attorney, and any miscellaneous fees or charges necessary to accomplish the boundary line change. The Town shall prepare all joint notices and pleadings required, subject to the review and approval of the County.
6. This agreement was authorized by resolution of the Board of Supervisors of Rockingham County at its meeting held on _____, after a public hearing on _____ was held on this agreement, following advertisement thereof, as required by law.
7. This agreement was authorized by resolution of the Town Council of the Town of Elkton at its meeting held on _____, after public hearing on _____ was held on this agreement, following advertisement thereof as required by law.

COUNTY OF ROCKINGHAM OF THE COMMONWEALTH OF VIRGINIA

By: _____
Chairman of the Board of Supervisors

ATTEST:

County Administrator

TOWN OF ELKTON, VIRGINIA

By: _____
Mayor

ATTEST:

Clerk, Town Council

VALLEY
ENGINEERING—SURVEYING—PLANNING
3231 PEOPLES DRIVE,
HARRISONBURG, VIRGINIA 22801
TELEPHONE (540) 434—6365

METES & BOUNDS DESCRIPTION
1.257 ACRES of LAND

BEGINNING at a point in the western right-of--way line of North East Side Highway, said point being a corner to Hom Kear & Heak Kear; thence with the said western right-of-way line of North East Side Highway

S 05° 53’ 54’’ W 248.56’

to a point, said point being a corner to the Anyse Breeden Kite Life Estate, said point being referenced **N 87° 27’ 09’’ W 0.38’** from an iron pin found; thence leaving North East Side Highway and with the said Anyse Breeden Kite Life Estate

N 87° 27’ 09’’ W 210.00’

to an iron pin found, said pin being a corner to Robert Steve & Brenda Kay Kite; thence leaving the said Anyse Breeden Kite Life Estate and with said Kite

N 05° 54’ 28’’ E 273.88’

to an iron pin found in the line of the aforementioned Hom Kear & Heak Kear; thence with said Kear

S 80° 32’ 29’’ E 210.00’

to the **BEGINNING** containing **1.257 ACRES of LAND.**

EXHIBIT B

VALLEY
ENGINEERING—SURVEYING—PLANNING
3231 PEOPLES DRIVE,
HARRISONBURG, VIRGINIA 22801
TELEPHONE (540) 434—6365

METES & BOUNDS DESCRIPTION
0.509 ACRES of LAND

BEGINNING at a point in the western right-of-way line of North East Side Highway, said point being a corner to Hom Kear & Heak Kear; thence with the said western right-of-way line of North East Side Highway

S 05° 55’ 34” W 69.79’

to a point, said point being a corner to other lands of Hom Kear & Heak Kear; thence leaving North East Side Highway and in part with said other lands of Kear, and in part with the lands of Robert Steve & Brenda Kay Kite

N 80° 32’ 29” W 318.05’

to a post found; thence continuing with said Robert Steve & Brenda Kay Kite;

N 06° 09’ 10” E 69.95’

to an point, said point being a corner to the aforementioned Hom Kear & Heak Kear; thence leaving Kite and with said Kear

S 80° 30’ 37” E 317.78’

to the **BEGINNING** containing **0.509 ACRES of LAND.**

April 7, 2005
8264B-MB2
#1760-7

File #8264-4, Exp:

EXHIBIT C

VALLEY
ENGINEERING—SURVEYING—PLANNING
3231 PEOPLES DRIVE,
HARRISONBURG, VIRGINIA 22801
TELEPHONE (540) 434—6365

METES & BOUNDS DESCRIPTION
0.872 ACRES of LAND

BEGINNING at an iron pipe found in the western right-of-way line of North East Side Highway, said pipe being a corner to Clinton E. & Dorothy J. Shuey; thence with the said western right-of-way line of North East Side Highway

S 05° 55' 34" W 119.77'

to a point, said point being a corner to Hom Kear & Heak Kear; thence leaving North East Side Highway and with said Kear

N 80° 30' 37" W 317.78'

to a point in the line of Robert Steve & Brenda Kay Kite; thence leaving Kear and with said Kite

N 06° 09' 10" E 119.91'

to an iron pipe found, said pipe being a corner to the aforementioned Clinton E. & Dorothy J. Shuey; thence leaving Kite and with said Shuey

S 80° 28' 46" E 317.32'

to the **BEGINNING** containing **0.872 ACRES of LAND.**

April 7, 2005
8264B-MB3
#1760-7

File #8264-4, Exp.

EXHIBIT D

AGREEMENT TO CHANGE BOUNDARY LINE

This Agreement, made on_____, 2005 by and between the County of Rockingham of the Commonwealth of Virginia, a Virginia political subdivision ("County"), and the Town of Elkton, Virginia, a Virginia municipal corporation ("Town"),

RECITALS:

A. The boundary line between the County and the Town is presently adjacent to parcels of land owned by David A. Taylor and Margie S. Taylor, located east of the current corporate limits of the Town of Elkton, Virginia, along Mt. Pleasant Road to Tanyard Bridge Road and generally northeast of Elk Run, Stonewall District, Rockingham County, Virginia.

B. As shown on a plat of the subject parcel made by Hal T. Benner, dated October 26, 2005, a copy of which is attached hereto as Exhibit A, the boundary line is situated so that the parcels belonging to David A. Taylor and Margie S. Taylor are in the County.

C. David A. Taylor and Margie S. Taylor desire to have water and sewer service from the Town of Elkton for the parcels shown on Exhibit A.

D. The County and the Town, pursuant to authority granted to each of them under Title 15.2, Chapter 31, Article 2 of the Code of Virginia (1950), as amended, have agreed to change the boundary line between them at the subject parcels in order that the Town may provide water and sewer service to these parcels. The County and the Town wish to set forth their agreement herein.

Now, therefore, in consideration of the premises and the benefits inuring to the parties herefrom, it is therefore mutually agreed as follows:

1. The boundary line of the Town of Elkton shall be expanded so that Tax Map Numbers 131 (A) 177 and 131 (A) 176 shall be located wholly within the Town boundary limits.
2. The boundary line change shall be effective upon the approval by the Circuit Court of Rockingham County, pursuant to §§ 15.2-3106 *et seq.* of the Code of Virginia (1950), as amended, encompassed in a final order establishing the new boundary, recorded in the land records and indexed in the names of the parties.
3. The parties shall jointly petition the Rockingham County Circuit Court to approve this agreement and establish the new boundary within a reasonable time following execution of the agreement.
4. The Town agrees to provide the area within the extended boundary with sewer, water, and all other Town services upon the effective date of the boundary change.
5. The Town shall bear the expense of the advertisement of the intention of both parties to approve this agreement, any survey costs or plat preparation charges, the filing fee for the petition to the Circuit Court to approve this agreement, all legal expenses related to the boundary line change, including reasonable fees of the County Attorney, and any miscellaneous fees or charges necessary to accomplish the boundary line change. The Town shall prepare all joint notices and pleadings required, subject to the review and approval of the County.
6. This agreement was authorized by resolution of the Board of Supervisors of Rockingham County at its meeting held on _____, after a public hearing on _____ was held on this agreement, following advertisement thereof, as required by law.
7. This agreement was authorized by resolution of the Town Council of the Town of Elkton at its meeting held on _____, after public hearing on _____ was held on this agreement, following advertisement thereof as required by law.

COUNTY OF ROCKINGHAM OF THE COMMONWEALTH OF VIRGINIA

By: _____
Chairman of the Board of Supervisors

ATTEST:

County Administrator

TOWN OF ELKTON, VIRGINIA

By: _____
Mayor

ATTEST:

Clerk, Town Council

AGREEMENT TO CHANGE BOUNDARY LINE

This Agreement, made on_____, 2005 by and between the County of Rockingham of the Commonwealth of Virginia, a Virginia political subdivision (“County”), and the Town of Elkton, Virginia, a Virginia municipal corporation (“Town”),

RECITALS:

- A. The boundary line between the County and the Town is presently adjacent to parcels of land owned by Leasco, L.P., R. E. Fields, Jr. and June R. Dean, on the southeastern side of Newtown Road (Route 759), Stonewall District, Rockingham County, Virginia.
- B. As shown on a plat of the subject parcel made by Hal T. Benner, dated October 26, 2005, a copy of which is attached hereto as Exhibit A, the boundary line is situated so that the parcels belonging to Leasco, L.P., R. E. Fields, Jr. and June R. Dean are in the County.
- C. Leasco, L.P., R. E. Fields, Jr. and June R. Dean desire to have water and sewer services from the Town of Elkton for the parcels shown in Exhibit A.
- D. The County and the Town, pursuant to authority granted to each of them under Title 15.2, Chapter 31, Article 2 of the Code of Virginia (1950), as amended, have agreed to change the boundary line between them at the subject parcels in order that the Town may provide water and sewer service to these parcels. The County and the Town wish to set forth their agreement herein.

Now, therefore, in consideration of the premises and the benefits inuring to the parties herefrom, it is therefore mutually agreed as follows:

1. The boundary line of the Town of Elkton shall be expanded so that Tax Map Numbers 131 (A) 182, 131 (A) 182A and 131 (A) 188 shall be located wholly within the Town boundary limits.

2. The boundary line change shall be effective upon the approval by the Circuit Court of Rockingham County, pursuant to §§ 15.2-3106 *et seq.* of the Code of Virginia (1950), as amended, encompassed in a final order establishing the new boundary, recorded in the land records and indexed in the names of the parties.

3. The parties shall jointly petition the Rockingham County Circuit Court to approve this agreement and establish the new boundary within a reasonable time following execution of the agreement.

4. The Town agrees to provide the area within the extended boundary with sewer, water, and all other Town services upon the effective date of the boundary change.

5. The Town shall bear the expense of the advertisement of the intention of both parties to approve this agreement, any survey costs or plat preparation charges, the filing fee for the petition to the Circuit Court to approve this agreement, all legal expenses related to the boundary line change, including reasonable fees of the County Attorney, and any miscellaneous fees or charges necessary to accomplish the boundary line change. The Town shall prepare all joint notices and pleadings required, subject to the review and approval of the County.

6. This agreement was authorized by resolution of the Board of Supervisors of Rockingham County at its meeting held on _____, after a public hearing on _____ was held on this agreement, following advertisement thereof, as required by law.

7. This agreement was authorized by resolution of the Town Council of the Town of Elkton at its meeting held on _____, after public hearing on _____ was held on this agreement, following advertisement thereof as required by law.

COUNTY OF ROCKINGHAM OF THE COMMONWEALTH OF VIRGINIA

By: _____
Chairman of the Board of Supervisors

ATTEST:

County Administrator

TOWN OF ELKTON, VIRGINIA

By: _____
Mayor

ATTEST:

Clerk, Town Council

AGREEMENT TO CHANGE BOUNDARY LINE

This Agreement, made on _____, 2005 by and between the County of Rockingham of the Commonwealth of Virginia, a Virginia political subdivision ("County"), and the Town of Elkton, Virginia, a Virginia municipal corporation ("Town"),

RECITALS:

- A. The boundary line between the County and the Town is presently adjacent to parcels of land owned by Hiram Kite, located adjacent to the existing eastern corporate limits of the Town of Elkton, Virginia, north of Mt. Pleasant Road, Stonewall District, Rockingham County, Virginia, consisting of 115.915 acres, more or less.
- B. As shown on a plat of the subject parcel made by Hal T. Benner, dated October 26, 2005, a copy of which is attached hereto as Exhibit A, the boundary line is situated so that the parcels belonging to Hiram Kite are in the County.
- C. Hiram Kite desires to have water and sewer service from the Town of Elkton for the parcels shown in Exhibit A.
- D. The County and the Town, pursuant to authority granted to each of them under Title 15.2, Chapter 31, Article 2 of the Code of Virginia (1950), as amended, have agreed to change the boundary line between them at the subject parcels in order that the Town may provide water and sewer service to these parcels. The County and the Town wish to set forth their agreement herein.

Now, therefore, in consideration of the premises and the benefits inuring to the parties herefrom, it is therefore mutually agreed as follows:

- 1. The boundary line of the Town of Elkton shall be expanded so that Tax Map 131(A) 179A shall be located wholly within the Town boundary limits. A metes and bounds description of the parcel that will be included within the Town boundary limits is attached hereto as Exhibit B.
- 2. The boundary line change shall be effective upon the approval by the Circuit Court of Rockingham County, pursuant to §§ 15.2-3106 et seq. of the Code of Virginia (1950), as amended, encompassed in a final order establishing the new boundary, recorded in the land records and indexed in the names of the parties.
- 3. The parties shall jointly petition the Rockingham County Circuit Court to approve this agreement and establish the new boundary within a reasonable time following execution of the agreement.

4. The Town agrees to provide the area within the extended boundary with sewer, water, and all other Town services upon the effective date of the boundary change.
5. The Town shall bear the expense of the advertisement of the intention of both parties to approve this agreement, any survey costs or plat preparation charges, the filing fee for the petition to the Circuit Court to approve this agreement, all legal expenses related to the boundary line change, including reasonable fees of the County Attorney, and any miscellaneous fees or charges necessary to accomplish the boundary line change. The Town shall prepare all joint notices and pleadings required, subject to the review and approval of the County.
6. This agreement was authorized by resolution of the Board of Supervisors of Rockingham County at its meeting held on _____, after a public hearing on _____ was held on this agreement, following advertisement thereof, as required by law.
7. This agreement was authorized by resolution of the Town Council of the Town of Elkton at its meeting held on _____, after public hearing on _____ was held on this agreement, following advertisement thereof as required by law.

COUNTY OF ROCKINGHAM OF THE COMMONWEALTH OF VIRGINIA

By: _____
Chairman of the Board of Supervisors

ATTEST:

County Administrator

TOWN OF ELKTON, VIRGINIA

By: _____
Mayor

ATTEST:

Clerk, Town Council

Benner & Associates, Inc.
1695 Peach Grove Avenue
Harrisonburg, Virginia 22801
(540) 434-0267

Metes and bounds description of a Boundary Line Adjustment to the Town of Elkton, Virginia, enclosing an area of 115.915 acres of land, located adjacent to the existing eastern Corporate limits of The Town of Elkton, north of Mt. Pleasant Road, Stonewall District, Rockingham County, Virginia.

Beginning at a point on the northeastern line of Mt. Pleasant Road, a corner with P.A. Bonavita's lands said point located S 45°52'31" W 5.05 feet from a Town of Elkton monument to be set and N 37°24'57" W 0.41 feet from a found pin, an existing Town of Elkton corner; thence with the northeastern line of Mt. Pleasant Road and the existing Elkton Town limits

N 36°18'43" W 918.77 Feet

To a point; thence with a curve to the left having a delta angle of 52°04'22", a radius of 399.06 feet, and an arc distance of 362.68 feet

Long Chord **N 56°29'10" W 350.33 Feet**

To a point; thence

N 82°31'20" W 83.09 Feet

To a point; thence with a curve to the right having a delta angle of 19°26'35", a radius of 676.72 feet, and an arc distance of 229.64 feet

Long Chord **N 72°48'03" W 228.54 Feet**

To a point; thence

N 62°00'54" W 46.29 Feet

To a found iron pin; thence leaving Mt. Pleasant Road and with the lands of D. M. Shifflett

N 35°47'07" E 461.50 Feet

To a found iron pin; thence

N 61°57'53" W 283.63 Feet

To a found iron pin; thence with the Town of Elkton lands

N 12°23'46" E 1958.71 Feet

To a found iron pin; thence leaving the existing Town of Elkton Corporate limits and with the lands of Lucy Toliver Estate in part and W.L. Jones in part

N 83°12'30" E 169.88 Feet

To a found iron pin; thence with the lands of J.R. Kilby

N 80°37'16" E 33.00 Feet

To a found iron pin; thence with the lands of Leasco, L. P.

S 20°23'46" W 175.35 Feet

To a found iron pin; thence continuing with lands of Leasco, L. P. in part and J.R. Dean in part

S 45°02'42" E 2969.22 Feet

To a found iron pin; thence continuing with the lands of J. R. Dean

N 75°36'30" E 1250.54 Feet

To a found axel; thence with lands of The Berry

Center, LLC

S 28°19'20" E 238.92 Feet

To a found axel; thence with the northwestern side of a gap between the lands of The Berry Center, LLC, F. G. Dean, J.A. Lawson and P.A. Bonavita

S 70°55'0S" W 2416.14 Feet

To a fence post; thence with the lands of P.A. Bonavita

S 45°52'31" W 759.02 Feet

To the beginning and enclosing an area of **115.915 Acres**. This metes and bounds description is attached to and made part of a Plat titled "115.915 Acre Boundary Line Adjustment Between The Town of Elkton & Rockingham County" dated October 26, 2005.

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PUBLIC HEARINGS - SPECIAL USE PERMITS.

At 7:27 p.m., Chairman Cuevas declared the meeting open for a public hearing on the following special use permit applications.

Ms. Stultz reviewed the background of requests and the staff's recommendations for each.

S05-63, request of William D. Waugh, 3318 Barbershop Lane, Elkton, for a small engine repair shop on property located on the southwest side of Barbershop Lane (Route 958) approximately 1 mile southeast of Rocky Bar Road (Route 754) in Stonewall Magisterial District, Election District #5, zoned RS-1. Tax Map #143B-(A)-25.

The applicant was present to answer questions; no objections were raised.

S05-64, request of E. W. & Betty Thompson, 6467 Simmers Valley Road, Harrisonburg, for a residence involving a division of land on property located on the northwest side of Longs Pump Road (Route 721) just west of Simmers Valley Road (Route 619) in Linville Magisterial District, Election District #2, zoned A1. Tax Map #80-(3)-6A.

Durwood Michael, representing the seller, said the applicant intended to keep using the land as a poultry farm.

Betty Thompson said the man who will buy the 20 acres wants to use it to build a house.

Ms. Stultz said the County had to consider the possibility that two residences could be built.

Ms. Thompson said that was not intended, that the site would be used for the farm only.

S05-65, request of Timothy R. Bryan, 272 Carrie Street, Broadway, for a machine shop on property located on the north side of Mayland Road (Route 259) just east of Winsinger Drive (Route 1419) in Plains Magisterial District, Election District #1, zoned A2. Tax Map #52-(A)-218A.

Chairman Cuevas asked if the hours from 6:30 a.m. to 8:00 p.m. would be acceptable, and Mr. Bryan agreed.

S05-66, request of Larry Beiler, 3171 Cedar Hill Drive, Harrisonburg for a custom woodworking shop on property located on the south side of Cedar Hill Drive (private) approximately 800 feet east of Harpine Highway (Route 42) in Linville Magisterial District, Election District #2, zoned A2. Tax Map #94-(6)-5.

Mr. Beiler said the request included an addition to the building which would be in the same footprints size as the present structure.

S05-67, request of Kyger Land Company LLC/DBA Kyger Funeral Home, 903 South Main Street, Harrisonburg, for a funeral home on property located on the north side of Spotswood Trail (Route 33) approximately 500 feet west of Massanetta Springs Road (Route 687) in Central Magisterial District, Election District #3, zoned A2. Tax Map #126-(A)-125 and #126-(A)-126.

Kenny Kyger said the two pieces of property would be merged, and he noted that the funeral home would be relocated from the City of Harrisonburg to the County. He added that the site would be well landscaped and next to a cemetery.

S05-68, request of Gordon & Wanda Driver, 7819 War Branch Road, Harrisonburg, for an agricultural auction building on property located on the southeast side of War Branch Road (Route 726) and Gladwell Lane (private) in Central Magisterial District, Election District #2, zoned A1. Tax Map #91-(A)-2.

The applicant was present to answer questions.

Kevin Wittig said the auction was a "good idea" that would "help the agricultural community."

Tom Weaver said the auction had "outgrown" its present location and needed to be moved.

Wanda Harper expressed concern about additional traffic using an already narrow road where the shoulders are often "washed out."

S05-69, request of R. Steven Pence/Six Penny Farm, 1505 Dave Berry Road, McGaheysville, for a residence involving a division of land from grantor to self on property located on the northeast side of Dave Berry Road (Route 648) approximately 1.2 miles southeast of McGaheysville Road (Route 996) in Stonewall

Magisterial District, Election District #5, zoned A1.
Tax Map #143-(A)-6A.

The applicant was present to answer questions; no
objections were raised.

S05-70, request of Jake Wenger, 1317 West Mosby Road,
Harrisonburg, for a second residence (for farm worker)
on property located on the southeast side of West
Mosby Road (712) approximately 3/4 mile northeast of
Pike Church Road (Route 701) in Ashby Magisterial
District, Election District #4, zoned A2. Tax Map
#123-(A)-121.

No one was available to speak on this request.

S05-71, request of Peter A. Bonavita, 17119 Mt.
Pleasant Road, Elkton, for rental storage units in 2
existing poultry houses on property located on the
northeast side of Mt. Pleasant Road (Route 623)
approximately 1/2 mile west of Huckleberry Road (Route
634) in Stonewall Magisterial District, Election
District #5, zoned A2. Tax Map #131-(A)-177C.

Mr. Bonavita said he could continue to use his
existing special use permit for a poultry operation
but he wished to change the use to storage units. He
said he intended to renovate the buildings to be
attractive and blend with their surroundings. He
pointed out that he would be living at the location
and wanted to have a pleasing addition to his
property.

Jim Lawson said the neighbors were opposed to the
proposal. He expressed concern about traffic
congestion, change in agricultural nature of the area,
and a 24-hour-a-day business operating in a
residential neighborhood.

S05-72, request of Shannon L. Showalter, 17768
Honeyville Road, Timberville, for a second residence
(for farm worker) on property located on the northeast
side of Honeyville Road (Route 740) approximately 3/10
mile north of Orchard Drive (Route 881) in Plains
Magisterial District, Election District #1, zoned A2.
Tax Map #28-(A)-155.

The applicant was present to answer questions.

A representative for Gordon and Sonny Bowman, who operate a neighboring orchard, said it should be made clear that there is another orchard close by and anyone buying the property should be made aware that they would be buying property next to a commercial orchard operation.

At 8:04 p.m., Chairman Cuevas closed the public hearing and called the regular meeting back to order.

On motion by Supervisor Breeden, seconded by Supervisor Floyd and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; subject to the following conditions, the Board approved S05-63, request of William D. Waugh, 3318 Barbershop Lane, Elkton, for a small engine repair shop on property located on the southwest side of Barbershop Lane (Route 958) approximately 1 mile southeast of Rocky Bar Road (Route 754) in Stonewall Magisterial District, Election District #5, zoned RS-1

1. The use shall be located in substantial accordance with plot plan as approved by the Board of Supervisors.
2. Building shall comply with the Uniform Statewide Building Code, and the proper permits shall be obtained.
3. VDOT reserves the right to require future entrance upgrades should conditions warrant.
4. Only individuals living in the residence on the property shall work in the business.
5. All work shall be done inside the building.
6. There shall be no outside storage of parts or equipment and there shall be no junk parts or junk machinery allowed to accumulate on the property.
7. This permit is contingent upon a site plan being submitted to and approved by the County. No permits shall be issued by the Department of Community Development and no work shall be done on the property until such time as a site plan is approved.
8. Off-street parking shall comply with the Rockingham County Code, and there shall be no parking on the VDOT right-of-way.
9. On-premise advertising sign shall comply with the Rockingham County Code, and a permit shall be obtained for any sign.
10. There shall be no off-premise signs allowed unless all County and VDOT requirements for outdoor advertising signs are met.
11. The business shall not begin operation until a certificate of occupancy is issued by the County. No certificate of occupancy shall be issued until all other conditions of this permit are met.
12. Hours of operation shall be from 7 am to 7 pm.

On motion by Supervisor Ahrend, seconded by Supervisor Kyger and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; subject to the following conditions, the Board approved S05-64, request of E. W. & Betty Thompson, 6467 Simmers Valley Road, Harrisonburg, for a residence

involving a division of land on property located on the northwest side of Longs Pump Road (Route 721) just west of Simmers Valley Road (Route 619) in Linville Magisterial District, Election District #2, zoned A1

1. The use shall be located in substantial accordance with plot plan as approved by the Board of Supervisors.
2. Residences shall comply with the Uniform Statewide Building Code and the proper permits shall be obtained.
3. Brush to the west of the entrance shall be cleared back at least six feet as required by VDOT in order to obtain required sight distance.
4. If deed exception is approved within one year from date of permit approval, the residence on each parcel shall be exempt from the one year completion date.
5. The residence shall not be used for rental purposes.
6. Residences shall not be occupied until a certificate of occupancy is issued from the County. No certificate of occupancy shall be issued until all other conditions of this permit are met.

At the request of Chairman Cuevas, on motion by Supervisor Kyger, seconded by Supervisor Ahrend and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; subject to the following conditions, the Board approved S05-65, request of Timothy R. Bryan, 272 Carrie Street, Broadway, for a machine shop on property located on the north side of Mayland Road (Route 259) just east of Winsinger Drive (Route 1419) in Plains Magisterial District, Election District #1, zoned A2.

1. The use shall be located in substantial accordance with plot plan as approved by the Board of Supervisors.
2. Building shall comply with the Uniform Statewide Building Code, and the proper permits shall be obtained.
3. If request is approved, VDOT will require as part of the site plan a turn lane and taper from Mayland Road and a taper entering Mayland Road.
4. A commercial entrance permit shall be obtained from VDOT's Residency Office and submitted to the Community Development Department prior to obtaining building permits. Entrance shall be constructed in accordance with said permit.
5. This permit is contingent upon applicants obtaining a sewage disposal system permit. A copy of said permit shall be submitted to the Community Development Department prior to obtaining a building permit.
6. All work shall be done inside the building, and there shall be no accumulation of machinery or parts outside the building.
7. There shall be no junk, trash or debris allowed to accumulate on the property.
8. This permit is contingent upon a site plan being submitted to and approved by the County. No permits shall be issued by the Department of Community Development and no work shall be done on the property until such time as a site plan is approved.
9. Off-street parking shall comply with the Rockingham County Code, and there shall be no parking on the VDOT right-of-way.
10. On-premise advertising sign shall comply with the Rockingham County Code, and a permit shall be obtained for any sign.
11. There shall be no off-premise signs allowed unless all County and VDOT requirements for outdoor advertising signs are met.
12. The business shall not begin operation until a certificate of occupancy is issued by the County. No certificate of occupancy shall be issued until all other conditions of this permit are met.
13. Hours of operation shall be from 6:30 am to 8:00 pm.

On motion by Supervisor Ahrend, seconded by Supervisor Breeden and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; subject to the following conditions, the Board approved S05-66, request of Larry Beiler, 3171 Cedar Hill Drive, Harrisonburg for a custom woodworking shop on property located on the south side of Cedar Hill Drive (private) approximately 800 feet east of Harpine Highway (Route 42) in Linville Magisterial District, Election District #2, zoned A2.

1. The use shall be located in substantial accordance with plot plan as approved by the Board of Supervisors.
2. A change of use building permit shall be obtained to convert the existing building from private to commercial, and a building permit shall be obtained for the new addition. Both the existing building and the addition shall comply with the Uniform Statewide Building Code.
3. VDOT reserves the right to require future entrance upgrades should conditions warrant.
4. Only individuals living in the residence on the property shall work in this business.
5. This permit is contingent upon a site plan being submitted to and approved by the County. No permits shall be issued by the Department of Community Development and no work shall be done on the property until such time as a site plan is approved.
6. On-premise advertising sign shall comply with the Rockingham County Code, and a permit shall be obtained for any sign.
7. There shall be no off-premise signs allowed unless all County and VDOT requirements for outdoor advertising signs are met.
8. Off-street parking shall comply with the Rockingham County Code, and there shall be no parking on the VDOT right-of-way.
9. The business shall not begin operation until a certificate of occupancy is issued by the County. No certificate of occupancy shall be issued until all other conditions of this permit are met.

On motion by Supervisor Floyd, seconded by Supervisor Kyger and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; subject to the following conditions, the Board approved S05-67, request of Kyger Land Company LLC/DBA Kyger Funeral Home, 903 South Main Street, Harrisonburg, for a funeral home on property located on the north side of Spotswood Trail (Route 33) approximately 500 feet west of Massanetta Springs Road (Route 687) in Central Magisterial District, Election District #3, zoned A2.

1. The use shall be located in substantial accordance with plot plan as approved by the Board of Supervisors.
2. Buildings shall comply with the Uniform Statewide Building Code, and the proper permits shall be obtained.
3. A commercial entrance permit shall be obtained from VDOT's Residency Office and entrance shall be constructed in accordance with said permit. A copy of the permit shall be submitted to the Community Development Department prior to issuance of building permits.
4. This permit is contingent upon a site plan being submitted to and approved by the County. No permits shall be issued by the Department of Community Development and no work shall be done on the property until such time as a site plan is approved.
5. Off-street parking shall comply with the Rockingham County Code, and there shall be no parking on the VDOT right-of-way.

6. On-premise advertising sign shall comply with the Rockingham County Code, and a permit shall be obtained for any sign.
7. There shall be no off-premise signs allowed unless all County and VDOT requirements for outdoor advertising signs are met.
8. The business shall not begin operation until a certificate of occupancy is issued by the County. No certificate of occupancy shall be issued until all other conditions of this permit are met.

Noting that he had visited the site and looked at the road, Supervisor Ahrend said VDOT indicated it had no problem with an entrance to the Driver site. He noted that the auction is needed in the County. On motion by Supervisor Ahrend, seconded by Supervisor Kyger and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; subject to the following conditions, the Board approved S05-68, request of Gordon & Wanda Driver, 7819 War Branch Road, Harrisonburg, for an agricultural auction building on property located on the southeast side of War Branch Road (Route 726) and Gladwell Lane (private) in Central Magisterial District, Election District #2, zoned A1.

1. The use shall be located in substantial accordance with plot plan as approved by the Board of Supervisors.
2. Building shall comply with the Uniform Statewide Building Code, and the proper permits shall be obtained.
3. VDOT reserves the right to require future entrance upgrades should conditions warrant.
4. If any sanitary waste facilities are required, this permit shall be contingent upon approval of such facility.
5. This permit is contingent upon a site plan being submitted to and approved by the County. No permits shall be issued by the Department of Community Development and no work shall be done on the property until such time as a site plan is approved.
6. On-premise advertising sign shall comply with the Rockingham County Code, and a permit shall be obtained for any sign.
7. There shall be no off-premise signs allowed unless all County and VDOT requirements for outdoor advertising signs are met.
8. Off-street parking shall comply with the Rockingham County Code, and there shall be no parking on the VDOT right-of-way.
9. This building shall be used for auctions for agricultural products only.
10. The business shall not begin operation until a certificate of occupancy is issued by the County. No certificate of occupancy shall be issued until all other conditions of this permit are met.

Noting that the applicant keeps his farm in "immaculate condition," on motion by Supervisor Breeden, seconded by Supervisor Ahrend and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; subject to the following conditions, the Board approved S05-69, request of R. Steven Pence/Six Penny Farm, 1505 Dave Berry Road, McGaheysville, for a residence involving a division of land from grantor to self on property located on the northeast side of Dave Berry Road (Route 648) approximately 1.2 miles

southeast of McGaheysville Road (Route 996) in Stonewall Magisterial District, Election District #5, zoned A1.

1. The use shall be located in substantial accordance with plot plan as approved by the Board of Supervisors.
2. Residence shall comply with the Uniform Statewide Building Code and the proper permits shall be obtained.
3. VDOT reserves the right to require future entrance upgrades should conditions warrant.
4. This permit is contingent upon applicants obtaining a sewage disposal system permit. A copy of said permit shall be submitted to the Community Development Department prior to obtaining deed exception approval.
5. If the deed exception is made within one year from the date of permit approval, the residence shall be exempt from the one year completion date.
6. The residence shall not be used for rental purposes.
7. Residence shall not be occupied until a certificate of occupancy is issued from the County. No certificate of occupancy shall be issued until all other conditions of this permit are met.

On motion by Supervisor Kyger, seconded by Supervisor Ahrend and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; subject to the following conditions, the Board approved S05-70, request of Jake Wenger, 1317 West Mosby Road, Harrisonburg, for a second residence (for farm worker) on property located on the southeast side of West Mosby Road (712) approximately 3/4 mile northeast of Pike Church Road (Route 701) in Ashby Magisterial District, Election District #4, zoned A2.

1. The use shall be located in substantial accordance with plot plan as approved by the Board of Supervisors.
2. Residence shall comply with the Uniform Statewide Building Code and the proper permits shall be obtained.
3. VDOT reserves the right to require future entrance upgrades should conditions warrant.
4. Sewage disposal system shall be installed and inspected in accordance with the permit issued by the Health Department.
5. Residence shall not be used for rental purposes except as part of arrangements with a farm worker
6. Residence shall not be occupied until a certificate of occupancy is issued from the County. No certificate of occupancy shall be issued until all other conditions of this permit are met.

Noting that he had viewed the plans for the Bonavita request, Supervisor Breeden said he would like to table the request and ask the Board to make a visit to the site. On motion by Supervisor Breeden, seconded by Supervisor Floyd and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board tabled S05-71, request of Peter A. Bonavita, 17119 Mt. Pleasant Road, Elkton, for rental storage units in 2 existing poultry houses on property located on the northeast side of Mt. Pleasant Road (Route 623) approximately 1/2 mile west of Huckleberry Road (Route

634) in Stonewall Magisterial District, Election District #5, zoned A2.

At Chairman Cuevas' request, on motion by Supervisor Floyd, seconded by Supervisor Breeden and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; subject to the following conditions, the Board approved S05-72, request of Shannon L. Showalter, 17768 Honeyville Road, Timberville, for a second residence (for farm worker) on property located on the northeast side of Honeyville Road (Route 740) approximately 3/10 mile north of Orchard Drive (Route 881) in Plains Magisterial District, Election District #1, zoned A2.

- (1) The use shall be located in substantial accordance with plot plan as approved by the Board of Supervisors.
- (2) Residence shall comply with the Uniform Statewide Building Code and the proper permits shall be obtained.
- (3) VDOT reserves the right to require future entrance upgrades should conditions warrant.
- (4) Septic shall be installed in accordance with permit #182-05-535. A copy of said permit shall be presented to the Community Development Department prior to obtaining a building permit.
- (5) The residence shall not be used for rental purposes except as part of arrangements with a farm worker.
- (6) All County setbacks shall be met.
- (7) If residence is a manufactured home it shall be skirted and the tongue removed (unless included within the skirting) within sixty (60) days of final inspection.
- (8) Residence shall not be occupied until a certificate of occupancy is issued from the County. No certificate of occupancy shall be issued until all other conditions of this permit are met.

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PUBLIC HEARING - REZONING REQUEST.

At 8:15 p.m., Chairman Cuevas declared the meeting open for a public hearing on the following rezoning applications.

Ms. Henderson reviewed the background on the request as well as the staff's and Planning Commission's recommendations.

RZ05-27, request of Bill V. Neff, Sr., 350 University Blvd., Harrisonburg, to rezone 1.221 acres from M2 (Light Industrial) to M1 (General Industrial) on a portion of tax parcel 137C (3) 1A. This site is located on the west side of South Valley Pike (Route 11) approximately .4 mile south of Oakwood Drive (Route 704) in Election District #4. The Comprehensive Plan designates this area as Industrial.

The staff report stated, "The area of the request is adjacent to industrial zoning and industrial uses and is consistent with the Comprehensive Plan. The site is served by public water and sewer, and has access to primary roads and Interstate 81. This rezoning is expected to be compatible with adjacent existing and future industrial uses."

The Planning Commission concurred with staff's recommendation and recommended approval on a 5-0 vote.

Ray Nicely, advised that the applicant was ill, and he would be representing Mr. Neff to answer any questions.

RZ05-29, request of Harrisonburg Community Associates, 578 E Market St., Suite 203, to rezone 4.685 acres from A2 (General Agricultural) to R1-C (Low Density Residential with Conditions) on tax parcel 125 (A) 9. The site is located north of Stone Spring Road (Route 726) and east of Peach Grove Avenue in Election District #3. The Comprehensive Plan designates this area as Community Residential. R-1 allows 2.9 single-family dwelling units per acre.

The staff report stated, "This request is compatible with surrounding uses, has access to public water and sewer, is adjacent to the City of Harrisonburg, and would be an extension of an existing residential area."

The Planning Commission concurred with the staff recommendation and recommended approval of the request on a 5-0 vote.

Dick Blackwell, Blackwell Engineering, advised that the property owners had been paying taxes on R1 land and then discovered it was zoned A2. He noted that water and sewer lines will be extended from the City of Harrisonburg. He pointed out that the road is carrying only 50 percent of its capacity. He said the off site drainage had been taken care of as well as drainage produced on the site. He noted that the request fits in well with the community.

RZ05-30, request of Girdley Construction, 202 Emerson Drive, Harrisonburg, to rezone 16.550 acres from M1 (General Industrial) to R3-C (General Residential with Conditions) on tax parcel 124 (A) 93. This site is located south of Willow Spring Road approximately .2 mile east of Pleasant Valley Road (Route 679) in Election District #3. The Comprehensive Plan designates this area as Agricultural Reserve. The applicant wants to construct up to 25 single-family detached dwellings per year. R-3 allows 4.3 single-family detached units per acre.

The staff report stated, "This proposed residential development is adjacent to the City of Harrisonburg, and would be a portion of a larger by-right subdivision located in the City. The applicant has proffered that the development would be connected to public water and sewer and the development schedule would be limited to no more than 25 lots platted per year. This development is consistent with the Comprehensive Plan's goal of encouraging residential growth in proximity to the City with access to public utilities. "

The Planning Commission concurred with the staff recommendation, and on a 5-0 vote, recommended approval of the request.

Dick Blackwell, Blackwell Engineering, said the property would have 7,000 trees as a buffer.

At 8:34 p.m., Chairman Cuevas closed the public hearing and called the meeting back to order.

On motion by Supervisor Kyger, seconded by Supervisor Ahrend and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board approved RZ05-27, request of Bill V. Neff, Sr., 350 University Blvd., Harrisonburg, to rezone 1.221 acres from M2 (Light Industrial) to M1 (General Industrial) on a portion of tax parcel 137C (3) 1A. This site is located on the west side of South Valley Pike (Route 11) approximately .4 mile south of Oakwood Drive (Route 704) in Election District #4.

On motion by Supervisor Floyd, seconded by Supervisor Ahrend and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board tabled RZ05-29, request of Harrisonburg Community Associates, 578 E Market St., Suite 203, to rezone 4.685 acres from A2 (General Agricultural) to R1-C (Low Density Residential with Conditions) on tax parcel 125 (A) 9. The site is located north of Stone Spring Road (Route 726) and east of Peach Grove Avenue in Election District #3.

On motion by Supervisor Floyd, seconded by Supervisor Breeden and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; subject to the following proffers, the Board approved RZ05-30, request of Girdley Construction, 202 Emerson Drive, Harrisonburg, to rezone 16.550 acres from M1 (General Industrial) to R3-C (General Residential with Conditions) on tax parcel 124 (A) 93. This site is located south of Willow Spring Road approximately .2 mile east of Pleasant Valley Road (Route 679) in Election District #3. The Comprehensive Plan designates this area as Agricultural Reserve. The applicant wants to construct up to 25 single-family detached dwellings per year. R-3 allows 4.3 single-family detached units per acre.

1. Developer will construct and dedicate to the Homeowners Association a fifty-foot wide landscaped buffer where, adjacent to the County Landfill as shown on the Preliminary Plat, two rows of Leyland cypress trees on 10 ft. centers, with the rows staggered, will be planted.
2. All buyers shall be notified in writing before the purchase of any lot of the existence, location and proximity of the County's Landfill.

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PUBLIC HEARING - ZONING ORDINANCE AMENDMENTS.

At 8:36 p.m., Chairman Cuevas declared the meeting open for a public hearing on the following proposed Zoning Ordinance amendments. Ms. Stultz reviewed the proposed amendments.

OA05-11 Chapter 17 of the Zoning Ordinance, Section 17-207. Requirements for special use permits. Changed to read (1) if VDOT or Health Department cannot give approval for a use under special use permit, the special use permit shall not be accepted; (2) operation of the building or use shall be commenced within two (2) years; and amended the special use permits for temporary manufactured home parks for construction workers to read temporary housing.

The staff report noted, "The purpose of this ordinance amendment is to prevent the unnecessary expenditure of the application fee for special use permit if VDOT or the Health Department cannot approve t the site. Staff also recommends that the tiered time period for completion under the permit be removed and that all applicants be given two (2) years to complete the work and have the building in use. In reviewing this ordinance staff found Section 17-207(j), which provides for temporary housing during construction. Staff however could find no instances in the last 27 years in which this section has been utilized. Given

the opportunity for significant opposition, which come with this type of regulation it is recommended that this section be removed."

The Planning Commission concurred with staff's recommendation with a 5-0 vote to recommend approval.

OA05-12 Chapter 17 of the Zoning Ordinance, Section 17-113.1. Foundation surveys. Exempts manufactured home parks existing prior to 1995 from survey requirements. Adds that replacement homes may be placed in these parks only after County determines sufficient distance between homes.

The staff report noted, "Larger buildings on smaller lots make it necessary for the foundation surveys to assure the County that the setbacks are being met. However, legal non-conforming manufactured home parks are proposed to be exempted and the County will determine if sufficient distance exists between the existing homes to allow larger homes."

The Planning Commission concurred with staff's recommendation with a vote of 5-0 to recommend approval.

OA05-13 Chapter 17 of the Zoning Ordinance, Section 17-200.1. Powers related to variances. Would authorize the Zoning Administrator the ability to grant a variance modification with appeal of that decision made to the BZA, with appeal to the BZA decision being made to Circuit Court.

The staff report noted, "The proposed requirements the Zoning Administrator must meet in granting the modification are the same as those for the BZA. This amendment would add between 3 and 4 more weeks to the procedure if the Zoning Administrator denies the request. Therefore, the applicant is looking at 9 or 10 weeks to find out if a variance will be granted. The Zoning Administrator is empowered with enforcement of the zoning ordinance. It appears contradictory that the Zoning Administrator may then grant a variance to the same ordinance the Administrator is required to enforce. Secondly the BZA is a quasi-judicial body appointed by the Circuit Court judge to make determinations on variances. Every time the BZA grants a variance it changes the laws governing that particular piece of property. Staff recommends that such actions be left to the BZA."

The Planning Commission concurred with staff's recommendation and voted 4 to 1 to recommend denial of this amendment.

OA05-16 Chapter 17 of the Zoning Ordinance, Section 17-31(ai)- Rural Service District, Section 17-39(f) - Residential/Recreational District and Section 17-48.3(s)- Planned Growth District to limit the amount

of poultry under domestic animals that may be kept in these zoning districts.

The staff report noted, "The purpose of this amendment is to allow a resident to have a few hens to lay eggs or to permit the children in 4-H and FFA to have poultry as a project. However, this proposed ordinance limits the numbers allowed on smaller lots or parcels that have a number of houses joining the property, thus alleviating the infringement on other properties."

At the Planning Commission meeting on November 1, 2005, the Commission stated five fowl would not enough for the 4-H or FFA members to warrant paying for the special use permit application. A motion was made to recommend approval to the Board with a recommendation that the Board develop a program to waive fees for 4-H, FFA, or other agricultural education programs. The motion carried with a vote of 5 to 0.

OA05-17 Chapter 17 of the Zoning Ordinance, Section 17-6. Specific definitions. Define farm winery; Section 17-147-17-147.02 to add farm wineries to the Rockingham County Code. Includes farm wineries not open to the public by right under Section 17-22(w) in A1 and 17-26(ah) in A2 and including the production and sale of wine and accessory products, tasting of wine, tours, special events and festivals; Section 17-23(af)-farm winery by special use permit in A1, and Section 17-27(bd) farm winery by special use permit in A2.

The staff report noted, "The vineyards and harvesting of the grapes are allowed under the right-to-farm act. Even though the County could require wineries not open to the public to be by special use permit, this amendment would allow the processing, packaging and selling of the wine by right, but would not allow the public to come to the winery or activities involving the winery to take place on the farm. Only wineries open to the public and having extra activities would need a special use permit. This amendment would benefit the farmer who wants to grow and process the grapes into wine but does not want the public to come to the property. However, for the ones that would want the public and extra activities, the County would have more control, along with VDOT and the Health Department, by requiring a special use permit. This ordinance, while providing income for the farmer and while keeping land in agricultural use, would also be a good ag-tourism business for the County.

The Planning Commission concurred with the staff's recommendation and recommended approval of the amendment with a vote of 5 -0.

There were no requests to speak on these proposed amendments.

At 8:39 p.m., Chairman Cuevas closed the public hearing and called the regular meeting back to order.

Chairman Cuevas said he did not agree with the amendment OA05-13, Chapter 17 of the Zoning Ordinance, Section 17-200, which would authorize the Zoning Administrator to grant variance modifications. He did not think the same person who drafted the ordinance should grant variances.

On motion by Supervisor Ahrend, seconded by Supervisor Floyd and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board denied OA05-13, Chapter 17 of the Zoning Ordinance, Section 17-200, which would authorize the Zoning Administrator to grant variance modifications, and approved the following amendments.

On motion by Supervisor Ahrend, seconded by Supervisor Floyd and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board approved the following ordinance amendments.

AMENDMENT TO CHAPTER 17 (ZONING ORDINANCE) OF THE ROCKINGHAM COUNTY CODE

***INTENT:** To add something to the Code that would put applicants on notice that if VDOT or the Health Department (or proper authority if on public utilities) cannot approve the request, the application will not be accepted. There is also a change regarding temporary housing by special use permit. Staff does not know of any instance in which temporary housing was requested and therefore proposes removing it from the ordinance. Additionally a proposal is being made to change the time in which special use permits must be in use.*

AMEND:

Sec. 17-207. Same--Requirements for special use permits.

- (a) The applicant shall make application for the special use permit to the zoning administrator on the form provided for the purpose, giving all information required by such form, including Virginia Department of Transportation (VDOT) and Health Department approval as well as such other information which the zoning administrator may deem necessary for consideration of the project for which a permit is desired.
- (b) The application shall be accompanied by a drawing showing:
 - (1) The size, dimensions, and shape of the parcel of land on which the proposed building or use is to be located;

- (2) The nature and dimensions of the proposed buildings and area of land to be used;
 - (3) The location of such buildings and area with respect to all existing buildings, to any public highways adjoining the parcel of land and the uses of lands surrounding the proposed building and area for which a permit is requested;
 - (4) Location and number of proposed off-street parking spaces;
 - (5) Any planned screening, buffering and landscaping;
 - (6) The location and dimensions of any signs associated with the proposal.
- (c) Prior to the submission of an application to the County, the applicant shall have VDOT review the request to determine if sight distance and other safety factors are in accordance with the current VDOT standards. If the existing or proposed entrance is deemed unsafe or if it does not meet VDOT standards, the application shall not be submitted to the County.
 - (d) Prior to the submission of any application to the County, the Health Department or locality providing sewage disposal shall determine that an acceptable sewage disposal system can be provided for the property. If it is determined that an acceptable sewage disposal system cannot be provided, a special use permit application shall not be submitted. If public sewer will serve the property, the applicant shall submit evidence of approval of such service by the locality providing such public sewage disposal prior to submitting the special use permit application.
 - (e) The zoning administrator shall fix a reasonable time for the hearing by the board of supervisors of the application for the special use permit, shall give reasonable notice thereof by publication at least once in a newspaper of general circulation to the county, and shall give due notice to the applicant and adjacent landowners, who shall be identified by the applicant.
 - (f) Each special use permit application shall be accompanied by payment of a fee to help defray costs.
 - (g) Applications for special use permits may be referred by the board of supervisors to the planning commission for its investigation and report as to the manner in which the proposed location and character of the use will affect the comprehensive plan or the intention of this ordinance when, in the discretion of the board of supervisors, additional information or guidance is necessary. The planning commission shall have sixty (60) days from and after the submission to it of an application within which to make its recommendations to the board of supervisors. If the commission fails to submit a report within sixty-day period, it shall be deemed to have approved the proposed special use.
 - (h) The board of supervisors may require the applicant to furnish a performance bond in an amount sufficient for and conditioned upon the fulfilling of any and all conditions and requirements stipulated by the board of supervisors. If the board of supervisors approves the application for a special use permit for a proposed special use, the zoning administrator shall issue a special use permit, indicating the nature of the use and any conditions.
 - (i) Reserved.

- (j) No application for a special use permit shall be considered by the board of supervisors within one (1) year from the date that an application for the same or substantially the same use on the same parcel of land was denied. This provision, however, shall not impair the right of the board of supervisors to propose a special use permit on its own motion.
- (k) Operation of the building or use shall be commenced within two (2) years after the date the permit is issued, unless otherwise provided in the permit itself. If not commenced within two (2) years after the date is issued, the permit shall become void and reapplication shall be required.
- (l) Conditions. The applicant for a special use permit may offer particular conditions related to the proposed use which can be adopted by the board of supervisors to accompany the application. The board of supervisors may also impose conditions consistent with the intent and purposes of this chapter, and in conformity with the standards set forth for the appropriate district, and with any standards within the district. No certificate of occupancy will be issued until all conditions placed upon the special use permit, whether by the applicant or the board of supervisors, are met to the satisfaction of zoning administrator. Such conditions will be designed *inter alia* to:
 - (1) Abate or restrict noise, smoke, dust, or other elements that may affect surrounding property;
 - (2) Establish setback, side and front yard requirements necessary for orderly expansion, and to prevent traffic congestion (exceeding the minimum);
 - (3) Provide for adequate parking and ingress and egress to public streets and roads;
 - (4) Provide adjoining property with a buffer or shelf from view of the proposed use if such use is considered to be detrimental to adjoining property;
 - (5) Prevent such use from substantially changing the character and established pattern of development of the community;
 - (6) Establish hours of operation of a business use if such action is deemed necessary to prevent or limit particular noise, traffic or other objectionable effects.
- (m) Revocation of permit. If the Board of Supervisors determines that there has not been compliance with the terms and conditions of a special use permit granted by the Board, it may revoke the special use permit. No special use permit may be revoked except after public notice and hearing as provided by Virginia Code §15.2-2204 or its successor statute. When giving required notice to the owners, their agents or occupants of abutting property and property immediately across the street or road from the property affected, the notice may be by first-class mail rather than registered or certified mail. Following revocation of the permit, the Zoning Administrator shall notify the applicants by certified mail instructing them to cease operation and remove the use from the property within thirty (30) days to avoid legal action.
- (n) Termination of use. An approved special use permit which has been put into use in accordance with the provisions of this section shall become void if the use ceases activity for more than two (2) years, unless approval of the permit specifically provides otherwise. (P.C. Ord. No. 84-5, § 802.05, 10-10-84; P.C. Ord. No. 86-14, 9-10-86; P.C. Ord. No. 6-88, (part), 7-13-88; P.C. Ord. No. 10-90, 8-22-90)

**AMENDMENT TO CHAPTER 17 (ZONING ORDINANCE) OF THE
ROCKINGHAM COUNTY CODE**

FOUNDATION SURVEYS

INTENT: *To begin enforcement of foundation surveys per ordinance amendment in 2003.*

HISTORY: *In 2003 an amendment was adopted requiring foundation surveys. However, after the adoption of this ordinance, the County realized that this would unfairly restrict the legal non-conforming manufactured home parks. Therefore, until it could be determined how to handle these parks, the amendment was placed on hold. During that time, the Community Development Department staff has measured in the old manufactured home parks whenever someone wanted to place a larger manufactured home there. Staff is now presenting language to exempt the old parks from the foundation surveys. With the extremely large homes being placed on small lots, we are often getting requests where the house comes just to the edge of all setback lines. It is necessary to require the foundation surveys in order to assure the house has not been shifted over the setback line.*

AMEND:

Sec. 17-113.1. Foundation surveys.

The following shall apply to structures that are required to have a foundation or footer inspection prior to proceeding with construction above the foundation, slab or piers.

- (a) Construction shall not continue on a new building, or building addition, the placement of a manufactured home in a manufactured home park constructed after 1995, or the placement of a manufactured home on private property until the zoning administrator has received a survey prepared by a certified land surveyor licensed to practice in the Commonwealth of Virginia. Such survey shall show that the foundation, slab, or piers as constructed meets County setback regulations.
- (b) A permit shall not be issued for the placement of a manufactured home in a manufactured home park that existed prior to 1995 until after the County has determined that there is sufficient space for the requested unit, and that the placement complies with the building code.
- (c) If the applicant submits to the Zoning Administrator sealed certification from a certified land surveyor that the building, structure, or manufactured home is a minimum of sixty (60) feet from all property lines and any state road, or such greater setbacks as otherwise required in the ordinance, Section 17-113.1(a) above may not be required.

Effective March 1, 2006.

**AN ORDINANCE TO AMEND CHAPTER 17 (ZONING ORDINANCE)
OF THE ROCKINGHAM COUNTY CODE.**

INTENT: To limit the amount of poultry on small lots, subdivision lots and zoning districts other than agriculture that allow for the keeping of domestic animals.

HISTORY Over the past couple of years the County has seen an increase in the amount of poultry kept on small lots and especially in the RR-1 Subdivision lots. The definition of domestic animals is “those animals as defined in animal husbandry, but kept only for personal use or casual sales, and are limited to one (1) animal unit per acre, not to exceed four (4) animal units. The animals in animal husbandry include poultry. According to the County Code, one animal unit of poultry is 300 chickens or ducks, 55 turkeys or gees, or three (3) ostriches. If this is a four acre parcel, as an example, they would be allowed to have 1200 chickens or ducks, 220 turkeys or geese, and 12 ostriches. There is nothing in the regulations that require these fowl to be kept in a building so often times they are running loose and getting onto neighboring property. Following a recent incident, the Board of Supervisors requested that staff look into limiting the amount of poultry allowed in the RR-1 District. While doing so, we expanded to the RS-1 and the PG Districts.

AMEND:

RS-1 District

Sec. 17-31. Special uses.

(ai) Animal, domestic, up to one animal unit per acre, not to exceed a total of four (4) animal units except that there shall be no more than five (5) birds or fowl per lot.

RR-1 District

Sec. 17-39. Special uses.

(f) ~~Domestic~~ Animal, domestic, up to one (1) animal unit per acre, not to exceed a total of four (4) animal units except that there shall be no more than five (5) birds or fowl per lot.

PG- Planned Growth District

Sec. 17-48.3

(s) ~~Domestic~~ Animal, domestic, up to one (1) animal unit per acre, not to exceed a total of four (4) animal units except that there shall be no more than five (5) birds or fowl per lot.

**Amendment to Chapter 17
(Zoning Ordinance) of the Rockingham County Code**

INTENT: To facilitate the development of farm wineries in the County for the benefit of sustainable agriculture and tourism.

AMEND:

Article III. Definition of Terms

17-6. Specific Definitions

Winery, Farm: A winery as defined by the State Alcoholic Beverage Control Board where upon at least fifty-one (51) percent of the fresh fruits or agricultural products used by the owner to manufacture the wine shall be grown or produced on the farm. If in the event of drought, natural disaster, disease or other cause beyond the control of the owner there are not sufficient grapes grown on the premises to allow the owner to meet normal annual production the owner may petition in writing for a one-year waiver of the fifty-one (51) percent rule. For the rule to be waived approval must be given by both the State Alcoholic Beverage Control Board and the Zoning Administrator and the owner shall be notified in writing by the Zoning Administrator of such waiver. The fifty-one (51) percent rule shall not be waived for more than three consecutive years.

AMEND:

Article VII Use Regulations Division 6C Farm Winery

Section 17-147 Purpose and Intent

The purpose of this article is to regulate and facilitate the development of farm wineries.

Section 17-147.01 Applicability

The requirements set forth in this division shall govern the development of farm wineries, in conjunction with the applicant additionally meeting all requirements set forth by the State Alcoholic Beverage Control Board.

Section 17-147.02 Site requirements

Each farm winery shall be subject to the following:

a. After obtaining approval from the County the owner shall obtain a farm winery license from the State Alcoholic Beverage Control Board. At least fifty-one (51) percent of the fresh fruits or agricultural products used by the owner to manufacture the wine shall be grown or produced on the farm, unless the State Alcoholic Beverage Control Board and Zoning Administrator waives such requirement; If, in the event of drought, natural disaster, disease or other cause beyond the control of the owner there are not sufficient grapes grown on the premises to allow the owner to meet normal annual production the owner may petition in writing for a one-year waiver of the fifty-one (51) percent rule. For the rule to be waived, approval must be given by both the State Alcoholic Beverage Control Board, and the Zoning Administrator and the owner shall be notified in writing by the Zoning Administrator of such waiver. The fifty-one (51) percent rule shall not be waived for more than three consecutive years.

b. Facilities for fermenting and/or bottling wine shall not be established until the vineyard, orchard or other growing area has been established and is in production;

c. The following uses and activities are permitted at a farm winery with the prior approval of a site plan as provided in subsection (d). Special events and festivals are also subject to the additional requirements set forth in subsection (e):

1. *On-premise sale of wine, associated products and wine tasting.* One location may be established on each farm for the on-premise sale of wine and associated products and wine tasting. The aggregate total floor area for such sales and wine tasting shall not exceed fifteen hundred (1,500) square feet. A special use permit may authorize the aggregate floor area to exceed fifteen hundred (1,500) square feet;
 2. *Daily tours.* Daily tours of a farm winery shall be permitted;
 3. *Special events.* Special events shall be permitted up to twelve (12) times per year. For purposes of this section, a *special event* is an event conducted at a farm winery on a single day for which attendance is allowed only by invitation or reservation. *Special events* include, but are not limited to, meetings, conferences, banquets, dinners, wedding receptions, private parties and other events conducted for the purpose of marketing wine. A special use permit may authorize the number of special events per year to exceed twelve (12).
 4. *Festivals.* Festivals shall be permitted up to four (4) times per year. For purposes of this section, a *festival* is an event conducted at a farm winery for up to three (3) consecutive days which is open to the general public and conducted for the purpose of marketing wine.
- d. A use or activity identified in subsection (c) is authorized only with the prior approval of a site plan.
- e. Special events and festivals shall be also subject to the following:
1. The owner shall obtain a special entertainment permit prior to conducting a festival. A single special entertainment permit may be obtained for one (1) or more such festivals as provided herein:
 - a. The owner shall apply for a special entertainment permit at least thirty (30) days prior to the date of the first festival to be authorized by the special entertainment permit. The application shall be submitted to the zoning administrator, who shall forward copies of the application to the county sheriff's office, the county fire and rescue division, and the local office of the Virginia Department of Health;
 - b. The application shall describe the nature of each festival to be authorized by the special entertainment permit, the date or dates and hours of operation of each such festival, the facilities, buildings and structures to be used, and the number of participants allowed to attend each festival;
 - c. Upon a determination that all requirements of the zoning ordinance are satisfied and upon receiving approval, and any conditions of such approval, from the other county offices receiving copies of the application, the zoning administrator shall issue a special entertainment permit for one or more festivals. The special entertainment permit shall be conditional upon the owner's compliance with all requirements of the zoning ordinance and all conditions imposed by the special entertainment permit;
 - d. The zoning administrator may issue a single special entertainment permit for two (2) or more festivals if: (i) the application submitted by the owner includes the required information for each festival to be covered by the special entertainment permit; (ii) the zoning administrator determines that each such festival is substantially similar in nature and size; and (iii) the zoning administrator determines that a single set of conditions that would apply to each such festival may be imposed with the special entertainment permit.

2. No kitchen facility permitted by the Health Department as a commercial kitchen shall be allowed on the farm. A kitchen may be used by licensed caterers for the handling, warming and distribution of food, but not for cooking food, to be served at such special event or festival;

3. An outdoor amplified sound system shall be prohibited after midnight.

A-1 District

17-22. Permitted Uses

(w) Farm Winery, not open to the public and with no on-site tours, special events or festivals.

17-23. Special Uses

(af) Farm Winery., open to the public and allowing activities as listed under Section 17-147.02(c)

A-2 District

17-26. Permitted Uses.

(ah) Farm Winery, not open to the public and with no on-site tours, special events or festivals.

17-27. Special Uses

(bd) Farm Winery, open to the public and allowing activities as listed under Section 17-147.02 (c).

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PUBLIC HEARING - ORDINANCE TO ENACT CHAPTER 7, ARTICLE XVI, SECTION 7-75, COUNTY CODE, TO CLASSIFY AS EXEMPT VARIOUS CLASSES OF PROPERTY; ORDINANCE TO ENACT CHAPTER 7, ARTICLE XVI, SECTION 7-76, TO EXEMPT REAL AND PERSONAL PROPERTY HELD IN ROCKINGHAM COUNTY AND USED BY TAX-EXEMPT ORGANIZATIONS; ORDINANCE TO ENACT CHAPTER 7, ARTICLE XV, SECTION 7-68, TO IMPLEMENT STATE CHANGES IN PERSONAL PROPERTY RELIEF PROGRAM.

At 8:40 p.m., Chairman Cuevas declared the meeting open for a public hearing on the following proposed ordinance amendments.

- Ordinance to enact Chapter 7, Article XVI, Section 7-75, County Code, to classify as exempt various classes of property.
- Ordinance to enact Chapter 7, Article XVI, Section 7-76, to exempt real and personal property held in Rockingham County and used by tax-exempt organizations.
- Ordinance to enact Chapter 7, Article XV, Section 7-68, to implement state changes in the Personal Property Relief Act of 1998.

There were no requests to speak on these matters.

At 8:41 p.m., Chairman Cuevas closed the public hearing and called the meeting back to order.

On motion by Supervisor Ahrend, seconded by Supervisor Breeden and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board approved the following ordinances.

ARTICLE XVI. PROPERTY EXEMPTED FROM TAXATION BY CLASSIFICATION OR DESIGNATION

Sec. 7-75 Property exempt from taxation by classification.

A. Pursuant to the authority granted in Article X, Section 6 (a) (6) of the Constitution of Virginia to exempt property from taxation by classification, the following classes of real and personal property shall be exempt from taxation:

1. Property owned directly or indirectly by the Commonwealth, or any political subdivision thereof.
2. Buildings with land they actually occupy, and the furniture and furnishings therein owned by churches or religious bodies and exclusively occupied or used for religious worship or for the residence of the minister of any church or religious body, and such additional adjacent land reasonably necessary for the convenient use of any such building.
3. Nonprofit private or public burying grounds or cemeteries.
4. Property owned by public libraries, law libraries of local bar associations when the same are used or available for use by a state court or courts or the judge or judges thereof, medical libraries of local medical associations when the same are used or available for use by state health officials, incorporated colleges or other institutions of learning not conducted for profit. This paragraph shall apply only to property primarily used for literary, scientific or educational purposes or purposes incidental thereto and shall not apply to industrial schools which sell their products to other than their own employees or students.
5. Property belonging to and actually and exclusively occupied and used by the Young Men's Christian Associations and similar religious associations, including religious mission boards and associations, orphan or other asylums, reformatories, hospitals and nunneries, conducted not for profit but exclusively as charities (which shall include hospitals operated by nonstock corporations not organized or conducted for profit but which may charge persons able to pay in whole or in part for their care and treatment).
6. Parks or playgrounds held by trustees for the perpetual use of the general public.
7. Buildings with the land they actually occupy, and the furniture and furnishings therein belonging to any benevolent or charitable organization and used by it exclusively for lodge purposes or meeting rooms, together with such additional adjacent land as may be necessary for the convenient use of the buildings for such purposes.
8. Property of any nonprofit corporation organized to establish and maintain a museum.

B. The real and personal property of an organization classified in *Virginia Code* §§ 58.1-3610 through 58.1-3622 and used by such organization for a religious, charitable, patriotic, historical, benevolent, cultural, or public park and playground purpose as set forth in Article X, Section 6 (a) (6) of the Constitution of Virginia, the particular purpose for which such organization is classified being specifically set forth within each section, shall be exempt from taxation, so long as such organization is

operated not for profit and the property so exempt is used in accordance with the purpose for which the organization is classified.

C. Property which was exempt from taxation on December 31, 2002, shall continue to be exempt from taxation under the rules of statutory construction applicable to exempt property at the time such property became entitled to exemption.

D. Exemptions of property from taxation granted under this section on or after January 1, 2003 shall be strictly construed in accordance with Article X, Section 6 (f) of the Constitution of Virginia.

Sec. 7-76 Property exempt from taxation by designation.

Property not granted tax-exempt status prior to January 1, 2003 can be granted tax-exempt status by designation only by the adoption of an ordinance by the Board of Supervisors granting the exemption. The adoption of such an ordinance shall be pursuant to the provisions of Article 4.1, Chapter 36 of Title 58.1 of the Code of Virginia applicable to the exemption of property from taxation by designation. The real and personal property of an organization designated by a Section within this Article and used by such organization exclusively for a religious, charitable, patriotic, benevolent, cultural or public park and playground purpose as set forth in Article X(a)(6) of the Constitution of Virginia, the particular purpose for which such organization is classified being specifically set forth within each Section, shall be exempt from taxation so long as such organization is operated not-for-profit and the property so exempt is used in accordance with the purpose for which the organization is classified. No exemption shall be provided to any organization that has any rule, regulation, policy, or practice that unlawfully discriminates on the basis of religious conviction, race, color, sex, or national origin.

Sec. 7-76.1

The real property of Camp Still Meadows, Inc. shall be exempt from taxation as property used for charitable and benevolent purposes. This exemption shall be contingent upon the continued use of the property in accordance with the purpose for which the organization is designated.

**An ordinance to provide for the implementation of the
2004-2005 changes to the Personal Property Tax Relief
Act of 1998 - Specific Relief**

WHEREAS the Personal Property Tax Relief Act of 1998, Va. Code §§ 58.1-3523 *et seq.* (“PPTRA”), has been substantially modified by the enactment of Chapter 1 of the Acts of Assembly, 2004 Special Session I (Senate Bill 5005), and the provisions of Item 503 of Chapter 951 of the 2005 Acts of Assembly (the 2005 revisions to the 2004-06 Appropriations Act, hereinafter cited as the “2005 Appropriations Act”); and

WHEREAS these legislative enactments require Rockingham County to take affirmative steps to implement these changes, and to provide for the computation and allocation of relief provided pursuant to the PPTRA as revised; and

WHEREAS these legislative enactments provide for the appropriation to Rockingham County, commencing in 2006, of a fixed sum to be used exclusively for the provision of tax relief to owners of qualifying personal use vehicles that are subject to the personal property tax (“PPT”) on such vehicles.

NOW THEREFORE BE IT ORDAINED by the Rockingham County Board of Supervisors as follows:

Sec. 7-68

(a) Purpose; Definitions; Relation to other Ordinances.

(1) The purpose of this Ordinance is to provide for the implementation of the changes to the Personal Property Tax Relief Act of 1998 (PPTRA) effected by legislation adopted during the 2004 Special Session I and the 2005 Regular Session of the General Assembly of Virginia.

(2) Terms used in this Ordinance that have defined meanings set forth in PPTRA shall have the same meanings as set forth in Va. Code § 581-3523, as amended.

(3) To the extent that the provisions of this Ordinance conflict with any prior Ordinance or provision of the Rockingham County Code, this Ordinance shall control.

(b) Method of Computing and Reflecting Tax Relief.

(1) For tax years commencing in 2006, Rockingham County adopts the provisions of Item 503.E of the 2005 Appropriations Act providing for the computation of tax relief as a specific dollar amount to be offset against the total taxes that would otherwise be due but for PPTRA and the reporting of such specific dollar relief on the tax bill.

(2) The Rockingham County Board of Supervisors shall annually by resolution set the percentage of tax relief at such a level that it is anticipated fully to exhaust PPTRA relief funds provided to Rockingham County by the Commonwealth.

(3) Personal property tax bills shall set forth on their face the specific dollar amount of relief credited with respect to each qualifying vehicle, together with an explanation of the general manner in which relief is allocated.

(c) Allocation of Relief among Taxpayers.

(1) Allocation of PPTRA relief shall be provided in accordance with the general provisions of this section as implemented by the specific provisions of Rockingham County’s annual budget relating to PPTRA relief.

(2) Relief shall be allocated in such a manner as to eliminate personal property taxation of each qualifying vehicle with an assessed value of \$1,000 or less.

(3) Relief with respect to qualifying vehicles with assessed values of more than \$1,000 shall be provided at a percentage, annually fixed and applied to the first \$20,000 in value of each such qualifying vehicle, that is estimated fully to use all available state

PPTRA relief. The percentage shall be established annually as a part of the adopted budget for Rockingham County.

(d) Transitional Provisions.

(1) Pursuant to authority conferred in Item 503.D of the 2005 Appropriations Act, the Rockingham County Treasurer is authorized to issue a supplemental personal property tax bill in the amount of 100 percent of tax due without regard to any former entitlement to state PPTRA relief, plus applicable penalties and interest, to any taxpayer whose taxes with respect to a qualifying vehicle for tax year 2005 or any prior tax year remain unpaid on September 1, 2006 or such date as state funds for reimbursement of the state share of such bill have become unavailable, whichever earlier occurs.

(2) Penalty and interest with respect to bills issued pursuant to subsection (1) of this section shall be computed on the entire amount of tax owed. Interest shall be computed at the rate provided in Rockingham County Code Sections 7-64 and 7-67 from the original due date of the tax.

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ADJOURNMENT .

By consensus, the Board adjourned the meeting at 8:47
p.m.

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Chairman